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ERRATA

OPENING STATEMENT BY MR. JUSTICE JACKSON

Page 1, paragraph 2, line 4, delete "fourteen" and insert "fifteen".

Page 10, line 5, delete "authorization" and insert "authoritarian".

Page 10, paragraph 3, line 3, delete "offense" and insert "offenses."

Page 13, line 2, delete "policy" and insert "police".

Page 28, middle paragraph, line 14, after word "quote" insert "General Stoop's" and delete "his".

Page 28, line 15, delete entire line.

Page 30, paragraph 3, line 11, after word "had" insert "been".

Page 30, next to last line of page, insert quotation mark before word "In".

Page 35, middle paragraph, line 9, after word "Franco." delete the word "They" and insert "Then".

Page 36, line 2, after word "be" delete word "take" and insert "taken".

Page 41, last paragraph, line 5, delete first word "boast" and insert word "boasted".

Page 45, last paragraph, line 5, delete words "conductel to which would" and insert words "conducted to".

Page 45, last paragraph, line 6, third word should be "only".

Page 46, first paragraph, line 6, after "Honduras" delete "and Panama" and insert "Panama, and New Zealand."

Page 46, first paragraph, line 8, delete "eighteen" and insert "nineteen".

Page 48, paragraph 3, line 5, delete "asking" and insert "making".

Page 49, line 2 delete "Crotus" and insert "Grotius".

Page 56, line 8, after "which" insert "a".

Page 57, line 5, after "person," delete "to".

Page 58, first paragraph, line 9, after "prosecution," delete "our" and insert "four".

Page 60, line 13, after "United" delete "States" and insert "Nations".

Page 61, middle paragraph, line 5, after "among" insert "the".

Page 61, middle paragraph, line 7, after "in" delete "it" and insert "its".

H0001 - 0003

RELEASE ON DELIVERY

INTERNATIONAL MILITARY TRIBUNAL

No. 1

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

- against -

HERMANN WILHELM GOERING, RUDOLF HESS, JOACHIM von RIBBENTROP, ROBERT LEY, WILHELM KEITEL, ERNST KALTENBRUNNER, ALFRED ROSENBERG, HANS FRANK, WILHELM FRICK, JULIUS STREICHER, WALTER FUNK, HJALMAR SCHACHT, GUSTAV KRUPP von BOHLEN und HALBACH, KARL DOENITZ, ERICH RAEDER, BALDUR von SCHIRACH, FRITZ SAUCKEL, ALFRED JODL, MARTIN BORMANN, FRANZ von PAPEN, ARTUR SEYSS-INQUART, ALBERT SPEER, CONSTANTIN von NEURATH, and HANS FRITZSCHE, Individually and as Members of Any of the Following Groups or Organizations to which They Respectively Belonged, Namely: DIE REICHSREGIERUNG (REICH CABINET); DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY); DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (commonly known as the "SS") and including DIE SICHERHEITSDIENST (commonly known as the "SD"); DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, commonly known as the "GESTAPO"); DIE STURMABTEILUNGEN DER N.S.D.A.P. (commonly known as the "SA") and the GENERAL STAFF and HIGH COMMAND of the GERMAN ARMED FORCES all as defined in Appendix B.

Defendants

OPENING STATEMENT FOR THE UNITED STATES OF AMERICA

- by -

ROBERT H. JACKSON
REPRESENTATIVE and CHIEF OF COUNSEL
for the
UNITED STATES OF AMERICA

-at -

THE PALACE OF JUSTICE, NURNBERG, GERMANY

November 21, 1945

H0001-0004

May it please Your Honors,

The privilege of opening the first trial in history for crimes against the peace of the world imposes a grave responsibility. The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated. That four great nations, flushed with victory and stung with injury stay the hand of vegeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power ever has paid to Reason.

This Tribunal, while it is novel and experimental, is not the product of abstract speculations nor is it created to vindicate legalistic theories. This inquest represents the practical effort of four of the most mighty of nations, with the support of fourteen more, to utilize International Law to meet the greatest menance of our times -- aggressive war. The common sense of mankind demands that law shall not stop with the punishment of petty crimes by little people. It must also reach men who possess themselves of great power and make deliberate and concerted use of it to set in motion evils which leave no home in the world untouched. It is a cause of this magnitude that the United Nations will lay before Your Honors.

In the prisoners dock sit twenty-odd broken men. Reproached by the humiliation of those they have led almost as bitterly as by the dead of those they have attacked, their personal capacity for evil is past. It is hard now to perceive in these miserable men as captives the power by which as Nazi leaders they once dominated much of the world and terrified most of it. Merely as individuals, their fate is of little consequence to the world.

What makes this inquest significant is that these prisoners represent sinister influences that will lurk in the world long after their bodies have returned to dust. They are living symbols of racial hatreds, of terrorism and violence, and of the arrogance and cruelty of power. They are symbols of fierce nationalisms and of militarism, of intrigue and war-making which have embroiled Europe generation after generation, crushing

H0001-0005

its manhood, destroying its homes, and impoverishing its life. They have so identified themselves with the philosophies they conceived and with the forces they directed that any tenderness to them is a victory and an encouragement to all the evils which are attached to their names. Civilization can afford no compromise with the social forces which would gain renewed strength if we deal ambiguously or indecisively with the men in whom those forces now precariously survive.

What these men stand for we will patiently and temperately disclose. We will give you undeniable proofs of incredible events. The catalogue of crimes will omit nothing that could be conceived by a pathological pride, cruelty, and lust for power. These men created in Germany, under the "Fuhrerprinzip," a National Socialist depotism equalled only by the dynasties of the ancient East. They took from the German people all those dignities and freedoms that we hold natural and inalienable rights in every human being. The people were compensated by inflaming and gratifying hatreds toward those who were marked as "scapegoats." Against their opponents, including Jews, Catholics, and free labor the Nazis directed such a campaign of arrogance, brutality, and annihilation as the world has not witnessed since the pre-Christian ages. They excited the German ambition to be a "master race," which of course implies serfdom for others. They led their people on a mad gamble for domination. They diverted social energies and resources to the creation of what they thought to be an invincible war machine. They overran their neighbors. To sustain the "master race" in its war-making, they enslaved millions of human beings and brought them into Germany, where these hapless creatures now wander as "displaced persons". At length bestiality and bad faith reached such excess that they aroused the sleeping strength of imperiled Civilization. Its united efforts have ground the German war machine to fragments. But the struggle has left Europe a liberated yet prostrate land where a demoralized society struggles to survive. These are the fruits of the sinister forces that sit with these defendants in the prisoners' dock.

H0001-0006

In justice to the nations and the men associated in this prosecution, I must remind you of certain difficulties which may leave their mark on this case. Never before in legal history has an effort been made to bring within the scope of a single litigation the developments of a decade, covering a whole Continent, and involving a score of nations, countless individuals, and innumerable events. Despite the magnitude of the task, the world has demanded immediate action. This demand has had to be met, though perhaps at the cost of finished craftsmanship. In my country, established courts, following familiar procedures, applying well thumbed precedents, and dealing with the legal consequences of local and limited events seldom commence a trial within a year of the event in litigation. Yet less than eight months ago today the courtroom in which you sit was an enemy fortress in the hands of German SS troops. Less than eight months ago nearly all our witnesses and documents were in enemy hands. The law had not been codified, no procedures had been established, no Tribunal was in existence, no usable courthouse stood here, none of the hundreds of tons of official German documents had been examined, no prosecuting staff had been assembled, nearly all the present defendants were at large, and the four prosecuting powers had not yet joined in common cause to try them. I should be the last to deny that the case may well suffer from incomplete researches and quite likely will not be the example of professional work which any of the prosecuting nations would normally wish to sponsor. It is, however, a completely adequate case to the judgment we shall ask you to render, and its full development we shall be obliged to leave to historians.

Before I discuss particulars of evidence, some general considerations which may affect the credit of this trial in the eyes of the world should be candidly faced. There is a dramatic disparity between the circumstances of the accusers and of the accused that might discredit our work if we should falter, in even minor matters, in being fair and temperate.

Unfortunately, the nature of these crimes is such that both prosecution and judgment must be by victor nations over vanquished foes.

H0001 - 0007

The worldwide scope of the aggressions carried out by these men has left but few real neutrals. Either the victors must judge the vanquished or we must leave the defeated to judge themselves. After the First World War, we learned the futility of the latter course. The former high station of these defendants, the notoriety of their acts, and the adaptability of their conduct to provoke retaliation make it hard to distinguish between the demand for a just and measured retribution, and the unthinking cry for vengeance which arises from the anguish of war. It is our task, so far as humanly possible, to draw the line between the two. We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well. We must summon such detachment and intellectrual integrity to our task that this trial will commend itself to posterity as fulfilling humanity's aspirations to do justice.

At the very outset, let us dispose of the contention that to put these men to trial is to do them an injustice entitling them to some special consideration. These defendants may be hard pressed but they are not ill used. Let us see what alternative they would have to being tried.

More than a majority of these prisoners surrendered to or were tracked down by forces of the United States. Could they expect us to make American custody a shelter for our enemies against the just wrath of our Allies? Did we spend American lives to capture them only to save them from punishment? Under the principles of the Moscow Declaration, those suspected war criminals who are not to be tried internationally must be turned over to individual governments for trial at the scene of their outrages. Many less responsible and less culpable American-held prisoners have been and will be turned over to other United Nations for local trial. If these defendants should succeed, for any reason, in escaping the condemnation of this Tribunal, or if they obstruct or abort this trial, those who are American-held prisoners will be delivered up

H0001 - 0008

to our continental Allies. For these defendants, however, we have set up an International Tribunal and have undertaken the burden of participating in a complicated effort to give them fair and dispassionate hearings. That is the best known protection to any man with a defense worthy of being heard.

If these men are the first war leaders of a defeated nation to be prosecuted in the name of the law, they are also the first to be given a chance to plead for their lives in the name of the law. Realistically, the Charter of this Tribunal, which gives them a hearing, is also the source of their only hope. It may be that these men of troubled conscience, whose only wish is that the world forget them, do not regard a trial as a favor. But they do have a fair opportunity to defend themselves -- a favor which these men, when in power, rarely extended to their fellow countrymen. Despite the fact that public opinion already condemns their acts, we agree that here they must be given a presumption of innocence, and we accept the burden of proving criminal acts and the responsibility of these defendants for their commission.

When I say that we do not ask for convictions unless we prove crime, I do not mean mere technical or incidental transgression of international conventions. We charge guilt on planned and intended conduct that involves moral as well as legal wrong. And we do not mean conduct that is a natural and human, even if illegal, cutting of corners, such as many of us might well have committed had we been in the defendants' positions. It is not because they yielded to the normal frailties of human beings that we accuse them. It is their abnormal and inhuman conduct which brings them to this bar.

We will not ask you to convict these men on the testimony of their foes. There is no count of the Indictment that cannot be proved by books and records. The Germans were always meticulous record keepers, and these defendants had their share of the Teutonic passion for thoroughness in putting things on paper. Nor were they without vanity. They arranged frequently to be photographed in action. We will show you their

H0001-0009

own films. You will see their own conduct and hear their own voices as these defendants reenact for you, from the screen, some of the events in the course of the conspiracy.

We would also make clear that we have no purpose to incriminate the whole German people. We know that the Nazi Party was not put in power by a majority of the German vote. We know it came to power by an evil alliance between the most extreme of the Nazi revolutionists, the most unrestrained of the German reactionaries, and the most aggressive of the German militarists. If the German populace had willingly accepted the Nazi program, no Stormtroopers would have been needed in the early days of the Party and there would have been no need for concentration camps or the Gestapo, both of which institutions were inaugurated as soon as the Nazis gained control of the German state. Only after these lawless innovations proved successful at home were they taken abroad.

The German people should know by now that the people of the United States hold them in no fear, and in no hate. It is true that the Germans have taught us the horrors of modern warfare, but the ruin that lies from the Rhine to the Danube shows that we, like our Allies, have not been dull pupils. If we are not awed by German fortitude and proficiency in war, and if we are not persuaded of their political maturity, we do respect their skill in the arts of peace, their technical competence, and the sober, industrious and self-disciplined character of the masses of the German people. In 1933, we saw the German people recovering prestige in the commercial, industrial and artistic world after the set-back of the last war. We beheld their progress neither with envy nor malice. The Nazi regime interrupted this advance. The recoil of the Nazi aggression has left Germany in ruins. The Nazi readiness to pledge the German word without hesitation and to break it without shame has fastened upon German diplomacy a reputation for duplicity that will handicap it for years. Nazi arrogance has made the boast of the "master race" a taunt that will be thrown at Germans the world over for generations. The Nazi nightmare has given the German name a new and sinister significance through-

H0001 - 0010

out the world which will retard Germany a century. The German, no less than the non-German world, has accounts to settle with these defendants.

The fact of the war and the course of the war, which is the central theme of our case, is history. From September 1st, 1939, when the German armies crossed the Polish frontiers, until September, 1941, when they met epic resistance at Stalingrad, German arms seemed invincible. Denmark and Norway, The Netherlands and France, Belgium and Luxembourg, the Balkans and Africa, Poland and the Baltic States, and parts of Russia, all had been overrun and conquered by swift, powerful, well-aimed blows. That attack upon the peace of the world is the crime against international society which brings into international cognizance crimes in its aid and preparation which otherwise might be only internal concerns. It was aggressive war, which the nations of the world had renounced. It was war in violation of treaties, by which the peace of the world was sought to be safeguarded.

This war did not just happen - it was planned and prepared for over a long period of time and with no small skill and cunning. The world has perhaps never seen such a concentration and stimulation of the energies of any people as that which enabled Germany twenty years after it was defeated, disarmed, and dismembered to come so near carrying out its plan to dominate Europe. Whatever else we may say of those who were the authors of this war, they did achieve a stupendous work in organization, and our first task is to examine the means by which these defendants and their fellow conspirators prepared and incited Germany to go to war.

In general, our case will disclose these defendants all uniting at some time with the Nazi Party in a plan which they well knew could be accomplished only by an outbreak of war in Europe. Their seizure of the German state, their subjugation of the German people, their terrorism and extermination of dissident elements, their planning and waging of war, their calculated and planned ruthlessness in the conduct of warfare, their deliberate and planned criminality toward conquered peoples, -- all these are ends for which they acted in concert; and all these are phases of the

H0001-0011

conspiracy, a conspiracy which reached one goal only to set out for another and more ambitious one. We shall also trace for you the intricate web of organizations which these men formed and utilized to accomplish these ends. We will show how the entire structure of offices and officials was dedicated to the criminal purposes and committed to use of the criminal methods planned by these defendants and their co-conspirators, many of whom war and suicide have put beyond reach.

It is my purpose to open the case, particularly under Count One of the Indictment, and to deal with the common plan or conspiracy to achieve ends possible only by resort to crimes against peace, war crimes, and crimes against humanity. My emphasis will not be on individual barbarities and perversions which may have occurred independently of any central plan. One of the dangers ever present is that this trial may be protracted by details of particular wrongs and that we will become lost in a "wilderness of single instances." Nor will I now dwell on the activity of individual defendants except as it may contribute to exposition of the common plan.

The case as presented by the United States will be concerned with the brains and authority back of all the crimes. These defendants were men of a station and rank which does not soil its own hands with blood. They were men who knew how to use lesser folk as tools. We want to reach the planners and designers, the inciters and leaders without whose evil architecture the world would not have been for so long scourged with the violence and lawlessness, and wracked with the agonies and convulsions, of this terrible war.

THE LAWLESS ROAD TO POWER

The chief instrumentality of cohesion in plan and action was the National Socialist German Workers Party, known as the Nazi Party. Some of the defendants were with it from the beginning. Others joined only after success seemed to have validated its lawlessness or power had invested it with immunity from the processes of the law. Adolf Hitler became its supreme leader or "fuehrer" in 1921.

H0001 - 0012

On the 24th of February, 1920, at Munich, it publicly had proclaimed its program. Some of its purposes would commend themselves to many good citizens, such as the demands for "profit-sharing in the great industries," "generous development of provision for old age," "creation and maintenance of a healthy middle class," "a land reform suitable to our national requirements," and "raising the standard of health." It also made a strong appeal to that sort of nationalism which in ourselves we call patriotism and in our rivals chauvinism. It demanded "equality of rights for the German people in its dealing with other nations and the evolution of the peace treaties of Versailles and St Germaine." It demanded the "union of all Germans on the basis of the right of self-determination of peoples to form a Great Germany." It demanded "land and territory (colonies) for the enrichment of our people and the settlement of our surplus population." All these, of course, were legitimate objectives if they were to be attained without resort to aggressive warfare.

The Nazi Party from its inception, however, contemplated war. It demanded "the abolition of mercenary troops and the formation of a national army." It proclaimed that "In view of the enormous sacrifice of life and property demanded of a nation by every war, personal enrichment through war must be regarded as a crime against the nation. We demand, therefore, the ruthless confiscation of all war profits." I do not criticise this policy. Indeed, I wish it were universal. I merely point out that in a time of peace, war was a preoccupation of the Party, and it started the work of making war less offensive to the masses of the people. With this it combined a program of physical training and sports for youth that became, as we shall see, the cloak for a secret program of military training.

The Nazi Party declaration also committed its members to an anti-Semitic program. It declared that no Jew or any person of non-German blood could be a member of the nation. Such persons were to be disfranchised, disqualified for office, subject to the alien laws, and

H0001-0013

entitled to nourishment only after the German population had first been provided for. All who had entered Germany after August 2, 1914 were to be required forthwith to depart, and all non-German immigration was to be prohibited.

The Party also avowed, even in those early days, an authorization and totalitarian program for Germany. It demanded creation of a strong central power with unconditional authority, nationalization of all businesses which had been "amalgamated," and a "reconstruction" of the national system of education which "must aim at teaching the pupil to understand the idea of the State (state sociology)." Its hostility to civil liberties and freedom of the press was distinctly announced in these words: "It must be forbidden to publish newspapers which do not conduce to the national welfare. We demand the legal prosecution of all tendencies in art or literature of a kind likely to disintegrate our life as a nation and the suppression of institutions which might militate against the above requirements."

The forecast of religious persecution was clothed in the language of religious liberty, for the Nazi program stated, "We demand liberty for all religious denominations in the State." But, it continues with the limitation, "so far as they are not a danger to it and do not militate against the morality and moral sense of the German race."

The Party program foreshadowed the campaign of terrorism. It announced, "We demand ruthless war upon those whose activities are injurious to the common interests", and it demanded that such offense be punished with death.

It is significant that the leaders of this Party interpreted this program as a belligerent one certain to precipitate conflict. The Party platform concluded, "The leaders of the Party swear to proceed regardless of consequences - if necessary, at the sacrifice of their lives - toward the fulfillment of the foregoing points." It is this Leadership Corps of the Party, not its entire membership, that stands accused as a criminal organization.

H0001-0014

Let us now see how the leaders of the Party fulfilled their pledge to proceed regardless of consequences. Obviously, their foreign objectives, which were nothing less than to undo international treaties and to wrest territory from foreign control, as well as most of their internal program, could be accomplished only by possession of the machinery of the German State. The first effort, accordingly, was to subvert the Weimar Republic by violent revolution. An abortive putsch at Munich in 1923 landed many of them in jail. The period of meditation which followed produced "Mein Kampf," henceforth the source of law for the Party workers and a source of considerable revenue to its supreme leader. The Nazi plans for the violent overthrow of the feeble Republic then turned to plans for its capture.

No greater mistake could be made than to think of the Nazi Party in terms of the loose organizations which we of the western world call "political parties." In discipline, structure, and method the Nazi Party was not adapted to the democratic process of persuasion. It was an instrument of conspiracy and of coercion. The Party was not organized to take over power in the German State by winning support of a majority of the German people. It was organized to seize power in defiance of the will of the people.

The Nazi Party, under the "Fuehrerprinzip," was bound by an iron discipline into a pyramid, with the Fuehrer, Adolf Hitler, at the top and broadening into a numerous Leadership Corps, composed of overlords of a very extensive Party membership at the base. By no means all of those who may have supported the movement in one way or another were actual Party members. The membership took the Party oath which in effect, amounted to an abdication of personal intelligence and moral responsibility. This was the oath: "I vow inviolable fidelity to Adolf Hitler; I vow absolute obedience to him and to the leaders he designates for me." The membership in daily practice followed its leaders with an idolatry and self-surrender more Oriental than Western.

H0001 - 0015

We will not be obliged to guess as to the motives or goal of the Nazi Party. The immediate aim was to undermine the Weimar Republic. The order to all Party members to work to that end was given in a letter from Hitler of August 24, 1931 to Rosenberg, of which we will produce the original. (Document 047-PS. from Rosenberg file.) Captured film enables us to present the defendant, Alfred Rosenberg, who from the screen will himself tell you the story. The SA practised violent interference with elections. We have here the reports of the SD describing in detail how its members later violated the secrecy of elections in order to identify those who opposed them. (Document No. R-142.) (Report from files of S. D. Kochem.)

The Party activity, in addition to all the familiar forms of political contest, took on the aspect of a rehearsal for warfare. It utilized a Party formation, "DIE STURMABTEILUNGEN," commonly known as the SA. This was a voluntary organization of youthful and fanatical Nazis trained for the use of violence under semi-military discipline. Its members began by acting as bodyguards for the Nazi leaders and rapidly expanded from defensive to offensive tactics. They became disciplined ruffians for the breaking up of opposition meetings and the terrorization of adversaries. They boasted that their task was to make the Nazi Party "master of the streets." The SA was the parent organization of a number of others. Its offspring include "DIE SCHUTZSTAFFELN," commonly known as the SS, formed in 1925 and distinguished for the fanaticism and cruelty of its members; "DER SICHERHEITSDIENST," known as the SD; and "DIE GEHEIME STAATSPOLIZEI," the Secret State Police, the infamous Gestapo formed in 1934 after Nazi accession to power.

A glance at a chart of the Party organization is enough to show how completely it differed from the political parties we know. It had its own source of law in the fuehrer and sub-fuehrers. It had its own courts and its own police. The conspirators set up a government within the Party to exercise outside the law every sanction that any legitimate state could exercise and many that it could not. Its chain of command was military, and its formations were martial in name as well as in function. They were composed of battalions set up to bear arms under military discipline,

H0001 - 0016

motorized corps, flying corps, and the infamous "Death Head Corps", which was not misnamed. The Party had its own secret policy, its security units, its intelligence and espionage division, its raiding forces, and its youth forces. It established elaborate administrative mechanisms to identify and liguidate spies and informers, to manage concentration camps, to operate death vans, and to finance the whole movement. Through these concentric circles of authority, the Nazi Party, as its leadership later boasted, eventually organized and dominated every phase of German life - but not until they had waged a bitter internal struggle characterized by brutal criminality. In preparation for this phase of their struggle, they created a party police system. This became the pattern and the instrument of the police state, which was the first goal in their plan.

The Party formations, including the Leadership Corps of the Party, the SD, the SS, the SA and the infamous Secret State Police, or Gestapo, -- all these stand accused before you as criminal organizations; organizations which, as we will prove from their own documents, were recruited only from recklessly devoted Nazis, ready in conviction and temperament to do the most violent of deeds to advance the common program. They terrorized and silenced democratic opposition and were able at length to combine with political opportunists, militarists, industrialists, monarchists, and political reactionaries.

On January 30, 1933 Adolf Hitler became Chancellor of the German Republic. An evil combination, represented in the prisoners' dock by its most eminent survivors, had succeeded in possessing itself of the machinery of the German Government, a facade behind which they thenceforth would operate to make a reality of the war of conquest they so long had plotted. The conspiracy had passed into its second phase.

H0001-0017

THE CONSOLIDATION OF NAZI POWER

We shall now consider the steps, which embraced the most hideous of crimes against humanity, to which the conspirators resorted in perfecting control of the German State and in preparing Germany for the aggressive war indispensable to their ends.

The Germans of the 1920's were a frustrated and baffled people as a result of defeat and the disintegration of their traditional government. The democratic elements, which were trying to govern Germany through the new and feeble machinery of the Weimar Republic, got inadequate support from the democratic forces of the rest of the world. It is not to be denied that Germany, when world-wide depression was added to her other problems, was faced with urgent and intricate pressures in her economic and political life which necessitated bold measures.

The internal measures by which a nation attempts to solve its problems are ordinarily of no concern to other nations. But the Nazi program from the first was recognized as a desperate program for a people still suffering the effects of an unsuccessful war. The Nazi policy embraced ends always recognized as attainable only by a renewal and a more successful outcome of war. The conspirators' answer to Germany's problems was nothing less than to plot the regaining of territories lost in the First World War and the acquisition of other fertile lands of Central Europe by dispossessing or exterminating those who inhabited them. They also contemplated destroying or permanently weakening all other neighboring peoples so as to win virtual domination of Europe and probably of the world. The precise limits of their ambition we need not define for it was and is as illegal to wage aggressive war for small stakes as for large ones.

We find at this period two governments in Germany -- the real and the ostensible. The forms of the German Republic were maintained for a time, and it was the outward and visible government. But the real authority in the State was outside of and above the law and rested in the Leadership Corps of the Nazi Party.

H0001 – 0018

On February 27, 1933, less than a month after Hitler became Chancellor, the Reichstag building was set on fire. The burning of this symbol of free parliamentary government was so providential for the Nazis that it was believed they staged the fire themselves. Certainly when we contemplate their known crimes, we cannot believe they would shrink from mere arson. It is not necessary, however, to resolve the controversy as to who set the fire. The significant point is in the use that was made of the fire and of the state of public mind it produced. The Nazis immediately accused the Communist Party of instigating and committing the crime, and turned every effort to portray this single act of arson as the beginning of a communist revolution. Then, taking advantage of the hysteria, the Nazis met this phantom revolution with a real one. In the following December, the Supreme Court with commendable courage and independence acquitted the accused communists, but it was too late to influence the tragic course of events which the Nazi conspirators had set rushing forward.

Hitler, on the morning after the fire, obtained from the aged and ailing President von Hindenburg a Presidential decree suspending the extensive guarantees of individual liberty contained in the constitution of the Weimar Republic. It must be said in fairness to von Hindenburg that the constitution itself authorized him temporarily to suspend these fundamental rights "if the public safety and order in the German Reich are considerably disturbed or endangered." It must also be acknowledged that President Ebert previously had invoked this power.

But the National Socialist coup was made possible because the terms of the Hitler-Hindenburg decree departed from all previous ones in which the power of suspension had been invoked. Whenever Ebert had suspended constitutional guarantees of individual rights, his decree had expressly revived the Protective Custody Act adopted by the Reichstag in 1916 during the previous war. This Act guaranteed a judicial hearing within 24 hours of arrest, gave a right to have counsel and to inspect all relevant records, provided for appeal, and authorized compensation from Treasury funds for erroneous arrests.

H0001 - 0019

The Hitler-Hindenberg decree of February 28, 1933 contained no such safeguards. The omission may not have been noted by von Hindenburg. Certainly he did not appreciate its effect. It left the Nazi police and party formations, already existing and functioning under Hitler, completely unrestrained and irresponsible. Secret arrest and indefinite detention, without charges, without evidence, without hearing, without counsel, became the method of inflicting inhuman punishment on any whom the Nazi police suspected or disliked. No court could issue an injunction, or writ of habeas corpus, or certiorari. The German people were in the hands of the police, the police were in the hands of the Nazi Party, and the Party was in the hands of a ring of evil men, of whom the defendants here before you are surviving and representative leaders.

The Nazi conspiracy, as we shall show, always contemplated not merely overcoming current opposition but exterminating elements which could not be reconciled with its philosophy of the state. It not only sought to establish the Nazi "new order" but to secure its sway, as Hitler predicted, "for a thousand years." Nazis were never in doubt or disagreement as to what these dissident elements were. They were concisely described by one of them, Col. General von Fritsch, on December 11, 1938, in these words: (Document No. 1947-PS.)

> "Shortly after the first war I came to the conclusion that we should have to be victorious in three battles if Germany were to become powerful again: 1. The battle against the working class -- Hitler has won this. 2. Against the Catholic Church, perhaps better expressed against Ultramontanism. 3. Against the Jews."

The warfare against these elements was continuous. The battle in Germany was but a practice skirmish for the worldwide drive against them. We have in point of geography and of time two groups of crimes against humanity -- one within Germany before and during the war, the other in occupied territory during the war. But the two are not separated in Nazi planning. They are a continuous unfolding of the Nazi plan to exterminate peoples and institutions which might serve as a focus or instrument for overturning their "new world order" at any time. We consider

H0001 – 0020

these crimes against humanity in this address as manifestations of the one Nazi plan and discuss them according to General von Fritsch's classification.

1. THE BATTLE AGAINST THE WORKING CLASS.

When Hitler came to power, there were in Germany three groups of trade unions. The General German Trade Union Confederation (ADGB) with twenty-eight affiliated unions, and the General Independent Employees Confederation (AFA) with thirteen federated unions together numbered more than 4,500,000 members. The Christian Trade Union had over 1,250,000 members.

The working people of Germany, like the working people of other nations, had little to gain personally by war. While labor is usually brought around to the support of the nation at war, labor by and large is a pacific, though by no means a pacifist force in the world. The working people of Germany had not forgotten in 1933 how heavy the yoke of the war lord can be. The Nazi program required that this part of the German population not only be stripped of power to resist diversion of its scanty comforts to armament, but also be wheedled or whipped into new and unheard of sacrifices as part of the Nazi war preparation. Labor must be cowed, and that meant its organizations and means of cohesion and defense must be destroyed.

The purpose to regiment labor for the Nazi Party was avowed by Ley in a speech to workers on May 2, 1933, as follows:

> "You may say what else do you want, you have the absolute power. True we have the power, but we do not have the whole people, we do not have you workers 100%, and it is you whom we want; we will not let you be until you stand with us in complete, genuine acknowledgment."

The first Nazi attack was upon the two larger unions. On April 21, 1933 an order not even in the name of the Government, but of the Nazi Party was issued by the conspirator Robert Ley as "Chief of Staff of the political organization of the NSDAP," applicable to the Trade Union Confederation and the Independent Employees Confederation. It directed

H0001 – 0021

seizure of their properties and arrest of their principal leaders. The party order directed party organs which we here denounce as criminal associations, the SA and SS "to be employed for the occupation of the trade union properties, and for the taking into custody of personalities who come into question." And it directed taking into "protective custody" of all chairmen and district secretaries of such unions and branch directors of the labor bank.

These orders were carried out on May 2, 1933. All funds of the labor unions, including pension and benefit funds, were seized. Union leaders were sent to concentration camps. A few days later, on May 10, 1933, Hitler appointed Ley leader of the German Labor Front (DEUTSCHE ARBEITSFRONT), which succeeded to the confiscated union funds. The German Labor Front, a Nazi controlled labor bureau, was set up under Ley to teach the Nazi philosophy to German workers and to weed out from industrial employment all who were backward in their lessons. "Factory Troops" were organized as an "ideological shock squad within the factory." The Party order provided that "outside of the German Labor Front, no other organization (whether of workers or of employees) is to exist." On June 24, 1933 the remaining Christian Trade Unions were seized pursuant to an order of the Nazi Party signed by Ley.

On May 19, 1933, this time by government decree, it was provided that "trustees" of labor, appointed by Hitler, should regulate the conditions of all labor contracts, replacing the former process of collective bargaining. On November 30, 1934 a decree "regulating national labor" introduced the fuehrer principle into industrial relations. It provided that the owners of enterprises should be the fuehrers and the workers should be the followers. The enterpriser-fuehrers should "make decisions for employees and laborers in all matters concerning the enterprise." It was by such bait that the great German industrialists were induced to support the Nazi cause, to their own ultimate ruin.

Not only did the Nazis dominate and regiment German labor, but they forced the youth into the ranks of the laboring people they had thus led into chains. Under a compulsory labor service decree on 26 June, 1935,

H0001 – 0022

young men and women between the ages of 18 and 25 were conscripted for labor. Thus was the purpose to subjugate German labor accomplished. In the words of Ley, this accomplishment consisted "in eliminating the association character of the trade union and employees' associations, and in its place we have substituted the conception 'soldiers of work'." The productive manpower of the German nation was in Nazi control. By these steps the defendants won the battle to liquidate labor unions as potential opposition and were enabled to impose upon the working class the burdens of preparing for aggressive warfare.

Robert Ley, the field marshal of the battle against labor, answered our indictment with suicide. Apparently he knew no better answer.

2. THE BATTLE AGAINST THE CHURCHES.

The Nazi Party always was predominantly anti-Christian in its ideology. But we who believe in freedom of conscience and of religion base no charge of criminality on anybody's ideology. It is not because the Nazi themselves were irreligious or pagan, but because they persecuted others of the Christian faith that they become guilty of crime, and it is because the persecution was a step in the preparation for aggressive warfare that the offense becomes one of international consequence. To remove every moderating influence among the German people and to put its population on a total war footing, the conspirators devised and carried out a systematic and relentless repression of all Christian sects and churches.

We will ask you to convict the Nazis on their own evidence. Martin Bormann in June, 1941, issued a secret decree on the relation of Christianity and National Socialism. The decree provided:

> "All influences which might impair or damage the leadership of the people exercised by the Fuehrer with the help of the NSDAP must be eliminated. More and more the people must be separated from the churches and their organs, the pastors....Just as the deleterious influence of astrologers, seers and other fakers are eliminated and suppressed by the State, so must the possibility of church influence also be totally removed.... Not until this has happened, does the state leadership have influence on the individual citizens. Not until then are the people and Reich secure in their existence for all time."

H0001 – 0023

And how the party had been securing the Reich from Christian influence, will be proved by such items as this telegram from the Gestapo, Berlin, to the Gestapo, Nurnberg on July 24, 1938. Let us hear their own account of events in Rottenburg. (Document No. 848-PS.)

> "The Party on the 23rd July 1938 starting at 21:00 carried out the third demonstration against Bishop Sproll. About 2500 - 3000 participants from outlying areas were brought along in buses, etc. The Rottenburg population did not take part in the demonstration . . . . The demonstrators stormed the Palace. Broke in the gates and doors. About 150 to 200 men penetrated into the Palace, searched the rooms, threw documents out of the windows and rooted up the beds in the rooms of the Palace. One bed was set afire. . . . . The Bishop was at prayer in the Chapel with Archbishop Groeber of Freiburg and the men and women of his entourage. Approximately 25 - 30 persons broke into the Chapel and molested those present there. Bishop Groeber was taken for Bishop Sproll, seized by the robe and pushed around."

Later, defendant Rosenberg wrote to Bormann reviewing the proposal of Kerrl as Church Minister to place the Protestant Church under State tutelage and proclaim Hitler its Supreme head. Rosenberg was opposed, hinting that Nazism was to suppress the Christian Church completely after the war.

The persecution of all pacifist and dissenting sects, such as Jehovah's Witnesses and the Pentecostal Association, was peculiarly relentless and cruel. The policy toward the Evangelical Churches, however, was to use their influence for the Nazis' own purposes. In September, 1933, Mueller was appointed the Fuehrer's representative with power to deal with the "affairs of the Evangelical Church" in its relations to the State. Eventually, steps were taken to create a Reich Bishop vested with power to control this Church. A long conflict followed, Paster Niemoeller was sent to concentration camp, and extended interference with the internal discipline and administration of the Churches occurred.

A most intense drive was directed against the Roman Catholic Church. After a strategic concordat with the Holy See, signed in July, 1933 in Rome, which never was observed by the Nazi Party, a long and persistent persecution of the Catholic Church, its priesthood and its members, was carried out. Church Schools and educational institutions were suppressed or subjected to requirements of Nazi teaching inconsistent

H0001 - 0024

with the Christian faith. The property of the Church was confiscated and inspired vandalism directed against Church property was left unpunished. Religious instruction was impeded and the exercise of religion made difficult. Priests and bishops were laid upon, riots were stimulated to harass them, and many were sent to concentration camps.

After occupation of foreign soil, these persecutions went on with greater vigor than ever. We will present to you the earnest protests made by the Vatican to Ribbentrop summarizing the persecutions to which the priesthood and the Church had been subjected in this Twentieth Century under the Nazi regime. Ribbentrop never answered them.

3. CRIMES AGAINST THE JEWS.

The most savage and numerous crimes planned and committed by the Nazis were those against the Jews. These in Germany, in 1933, numbered about 500,000. In the aggregate, they had made for themselves positions which excited envy, and had accumulated properties which excited the avarice of the Nazis. They were few enough to be helpless and numerous enough to be held up as a menace.

Let there be no misunderstanding about the charge of persecuting Jews. What we charge against these defendants is not those arrogances and pretensions which frequently accompany the intermingling of different peoples and which are likely, despite the honest efforts of government, to produce regrettable crimes and convulsions. It is my purpose to show a plan and design, to which all Nazis were fanatically committed, to annihilate all Jewish people. These crimes were organized and promoted by the Party Leadership, executed and protected by the Nazi officials, as we shall convince you by written orders of the Secret State Police itself.

The persecution of the Jews was a continuous and deliberate policy. It was a policy directed against other nations as well as against the Jews themselves. Anti-Semitism was promoted to divide and embitter the democratic peoples and to soften their resistance to the Nazi aggression. As Robert Ley declared, "The second German secret weapon is Anti-Semitism because if it is constantly pursued by Germany, it will become a universal problem which all nations will be forced to consider."

H0001-0025

Anti-Semitism also has been aptly credited with being a "spearhead of terror." The ghetto was the laboratory for testing repressive measures. Jewish property was the first to be expropriated, but the custom grew and included similar measures against Anti-Nazi Germans, Poles, Czechs, Frenchmen, and Belgians. Extermination of the Jews enabled the Nazis to bring a practiced hand to similar measures against Poles, Serbs, and Greeks. The plight of the Jew was a constant threat to opposition or discontent among other elements of Europe's population - pacifists, conservatives, communists, Catholics, Protestants, socialists. It was, in fact, a threat to every dissenting opinion and to every non-Nazi's life.

The persecution policy against the Jews commenced with non-violent measures, such as disfranchisement and discriminations against their religion, and the placing of impediments in the way of success in economic life. It moved rapidly to organized mass violence against them, physical isolation in ghettos, deportation, forced labor, mass starvation, and extermination. The Government, the Party formations indicted before you as criminal organizations, the Secret State Police, the Army, private and semi-public associations, and "spontaneous" mobs that were carefully inspired from official sources, were all agencies concerned in this persecution. Nor was it directed against individual Jews for personal bad citizenship or unpopularity. The avowed purpose was the destruction of the Jewish people as a whole, as an end in itself, as a measure of preparation for war, and as a discipline of conquered peoples.

The conspiracy or common plan to exterminate the Jew was so methodically and thoroughly pursued that despite the German defeat and Nazi prostration, this Nazi aim largely has succeeded. Only remnants of the European Jewish population remain in Germany, in the countries which Germany occupied, and in those which were her satellites or collaborators. Of the 9,600,000 Jews who lived in Nazi dominated Europe, 60 percent are authoritatively estimated to have perished. 5,700,000 Jews are missing from the countries in which they formerly lived, and over 4,500,000 cannot be accounted for by the normal death rate nor by immigration; nor are they included among displaced persons. History does not record a crime ever

H0001 – 0026

perpetrated against so many victims or one ever carried out with such calculated cruelty.

You will have difficulty, as I have, to look into the faces of these defendants and believe that in this Twentieth Century human beings could inflict such sufferings as will be proved here on their own countrymen as well as upon their so-called "inferior" enemies. Particular crimes, and the responsibility of defendants for them, are to be dealt with by the Soviet Government's Counsel, when committed in the East, and by Counsel for the Republic of France when committed in the West. I advert to them only to show their magnitude as evidence of a purpose and a knowledge common to all defendants, of an official plan rather than of a capricious policy of some individual commander, and to show such a continuity of Jewish persecution from the rise of the Nazi conspiracy to its collapse as forbids us to believe that any person could be identified with any part of Nazi action without approving this most conspicuous item of its program.

The Indictment itself recites many evidences of the anti-Semitic persecutions. The defendant Streicher led the Nazis in anti-Semitic bitterness and extremism. In March, 1942 he complained that Christian teachings have stood in the way of "radical solution of the Jewish question in Europe," and quoted enthusiastically as the Twentieth Century solution the fuehrer's proclamation of February 24, 1942 that "the Jew will be exterminated." (Document No. 1957-PS.) And on November 4, 1943, Streicher declared that the Jews "have disappeared from Europe and that the Jewish 'Reservoir of the East' from which the Jewish plague has for centuries beset the people of Europe, has ceased to exist." (Document No. 1965-PS, Nov. 4, 1943). Streicher now has the effrontery to tell us he is "only a Zionist" -- he says he wants only to return the Jews to Palestine. But on May 7, 1942 (Document No. 1979-PS) he wrote:

> "It is also not only an European problem! <u>The Jewish question is a world question</u>! Not only is Germany not safe in the face of the Jews as long as one Jew lives in Europe, but also the Jewish question is hardly solved in Europe so long as Jews live in the rest of the world."

H0001 – 0027

And the defendant Hans Frank, a lawyer by profession I say with shame, summarized in his Diary in 1944 the Nazi policy thus: "The Jews are a race which has to be eliminated; whenever we catch one, it is his end." (Document No. 2233-PS, Vol. 1944, P. 26.) And earlier, speaking of his function as Governor General of Poland, he confided to his diary this sentiment: "Of course I cannot eliminate all lice and Jews in only a year's time." (Document No. 2233-PS, Vol. IV, 1940, p. 1158.) I could multiply endlessly this kind of Nazi ranting but I will leave it to the evidence and turn to the fruit of this perverted thinking.

The most serious of the actions against Jews were outside of any law, but the law itself was employed to some extent. There were the infamous Nurnberg decrees of September 15, 1935. (R. 613-L.I., P. 1146.) The Jews were segregated into ghettos and put into forced labor; they were expelled from their professions; their property was expropriated; all cultural life, the press, the theatre, and schools were prohibited them; and the SD was made responsible for them. (Documents Nos. 112-PS, 212-PS, 069-PS.) This was an ominous guardianship.

The anti-Jewish campaign became furious in Germany following the assassination in Paris of the German Legation Councillor von Rath. Heydrich, Gestapo head, sent a teletype to all Gestapo and SD offices with directions for handling "spontaneous" uprising anticipated for the nights of November 9 and 10, 1938, so as to aid in destruction of Jewish-owned property and protect only that of Germans. (Document No. 765-PS.) No more cynical document ever came into evidence. Then there is a report by an SS Brigade Leader to Himmler (Document No. L-180) which recites that:

> "Following our orders, the Security Police had decided to solve the Jewish question with all possible means and with every determination. But it was desirable that the Security Police should not put in an immediate appearance, at least in the beginning, since the extraordinarily severe measures were apt to stir even German circles. We arranged to prove to the public that the native population itself took the first action by way of natural reaction against the suppression by Jews during several decades and against the terror exercised by the Communists during the preceding period." (pp. 4, 5.)

H0001-0028

Of course, it is self-evident that these "uprisings" were managed by the government and the Nazi Party. If we were in doubt, we could resort to Streicher's memorandum of April 14, 1939, which says, "The anti-Jewish action of November, 1938 did not arise spontaneously from the people. * * * Part of the party formation have been charged with the execution of the anti-Jewish action." (Document No. 406-PS.) Jews as a whole were fined a billion Reichsmarks. They were excluded from all businesses, and claims against insurance companies for their burned properties were confiscated, all by decree of the defendant Goering. (Reich Law Register, 1938, Teil I, No. 189, pp. 1579-1582. Document No. L-1.)

Synagogues were the objects of a special vengeance. On November 10, 1938, the following order was given: "By order of the Group Commander, all Jewish Synagogues in the area of Brigade 50 have to be blown up or set afire. * * * The operation will be carried out in civilian clothing. * * * Execution of the order will be reported * *." (Document No. 1721-PS.) Some 40 teletype messages from various police headquarters will tell the fury with which all Jews were pursued in Germany on those awful November nights. The SS troops were turned loose and the Gestapo supervised. Jewish owned property was authorized to be destroyed. The Gestapo ordered twenty to thirty thousand "well-to-do Jews" to be arrested. Concentration camps were to receive them. Healthy Jews, fit for labor, were to be taken. (Document No. L-13) (Document No. L-33)

As the German frontiers were expanded by war, so the campaign against the Jews expanded. The Nazi plan never was limited to extermination in Germany; always it contemplated extinguishing the Jew in Europe and often in the world. In the west, the Jews were killed and their property taken over. But the campaign achieved its zenith of savagery in the East. The Eastern Jew has suffered as no people every suffered. Their sufferings were carefully reported to the Nazi authorities to show faithful adherence to the Nazi design. I shall refer only to enough of the evidence of these to show the extent of the Nazi design for killing Jews.

H0001-0029

If I should recite these horrors in words of my own, you would think me intemperate and unreliable. Fortunately, we need not take the word of any witness but the Germans themselves. I invite you now to look at a few of the vast number of captured German orders and reports that will be offered in evidence, to see what a Nazi invasion meant. We will present such evidence as the report of "Einsatzgruppe (Action Group) A" of October 15, 1941, which boasts that in overruning the Baltic States, "Native Anti-Semitic forces were induced to start pogroms against the Jews during the first hours after occupation * * *." (Document No. L-180, p. 4.) The report continues:

> "From the beginning it was to be expected that the Jewish problem in the East could not be solved by pogroms alone. In accordance with the basic orders received, however, the cleansing activities of the Security Police had to aim at a complete annihilation of the Jews. Special detachments reinforced by selected units - in Lithuania partisan detachments, in Latvia units of the Latvian auxiliary police - therefore performed extensive executions both in the towns and in rural areas. The actions of the execution detachments were performed smoothly."
>
> "The sum total of the Jews liquidated in Lithuania amounts to 71,105. During the pogroms in Kowno 3,800 Jews were eliminated, in the smaller towns about 1,200 Jews."
>
> "In Latvia, up to now a total of 30,000 Jews were executed. 500 were eliminated by pogroms in Riga."

This is a captured report from the Commissioner of Sluzk on October 20, 1941, which describes the scene in more detail. It says:

> ". . . The first lieutenant explained that the police battalion had received the assignment to effect the liquidation of all Jews here in the town of Sluzk, within two days . . Then I requested him to postpone the action one day. However, he rejected this with the remark that he had to carry out this action everywhere and in all towns and that only two days were allotted for Sluzk. Within these two days, the town of Sluzk had to be cleared of Jews by all means. . . All Jews without exception were taken out of the factories and shops and deported in spite of our agreement. It is true that part of the Jews was moved by way of the ghetto where many of them were processed and still segregated by me, but a large part was loaded directly on trucks and liquidated without further delay outside of the town. . . For the rest, as regards the execution of the action. I must point out to my deepest regret that the latter bordered already on sadism. The town itself offered a picture of horror during the action. With indescribable brutality on the part of both the German police officers and particularly the Lithuanian partisans, the Jewish people, but also among them White Ruthenians, were taken out of their dwellings and herded together. Everywhere in the town shots were to be heard and in different streets the corpses of shot

H0001 – 0030

Jews accumulated. The White Ruthenians were in greatest distress to free themselves from the encirclement. Regardless of the fact that the Jewish people, among whom were also tradesmen, were mistreated in a terribly barbarous way in the face of the White Ruthenian people, the White Ruthenians themselves were also worked over with rubber clubs and rifle butts. There was no question of an action against the Jews any more. It rather looked like a revolution. . ."

There are reports which merely tabulate the numbers slaughtered. An example is an account of the work of Einsatzgruppen of Sipo and SD in the East, (Document No. R-102) which relates that --

In Estonia, all Jews were arrested immediately upon the arrival of the Wehrmacht. (P. 7) Jewish men and women above the age of 16 and capable of work were drafted for forced labor. (P. 8) Jews were subjected to all sorts of restrictions and all Jewish property was confiscated. (P. 8)

All Jewish males above the age of 16 were executed, with the exception of doctors and elders. Only 500 of an original 4,500 Jews remained. (P. 8)

37,180 persons have been liquidated by the Sipo and SD in White Ruthenia during October.

In one town, 337 Jewish women were executed for demonstrating a 'provocative attitude.' (P. 13) In another, 380 Jews were shot for spreading vicious propaganda. (P. 13)

And so the report continues, listing town after town, where hundreds upon hundreds of Jews were murdered.

In Witebsk 3,000 Jews were liquidated because of the danger of epidemics.

In Kiew, 33,771 Jews were executed on September 29 and 30 in retaliation for some fires which were set off there. (P. 18)

In Shitomir, 3,145 Jews 'had to be shot' because, judging from experience they had to be considered as the carriers of Bolshevik propaganda. (P. 18)

In Cherson, 410 Jews were executed in reprisal against acts of sabotage.

In the territory east of the Djnepr, the Jewish problem was 'solved' by the liquidation of 4,891 Jews (P. 19) and by putting the remainder into labor battalionsof up to 1,000 persons.

Other accounts tell not of the slaughter so much as of the depths of degradation to which the tormentors stooped. For example, we will show the report made to defendant Rosenberg about the army and the SS in the area under Rosenberg's jurisdiction, which recited the following: (Document No. R. 135)

"Details: In presence of SS man, a Jewish dentist has to break all gold teeth and fillings out of mouth of German and Russian Jews before they are executed. (Document B.)

H0001 - 0031

Men, women and children are locked into barns and burned alive. (Document A.)

Peasants, women and children are shot on pretext that they are suspected of belonging to bands. (Document C.)

We of the Western World heard of Gas Wagons in which Jews and political opponents were asphyxiated. We could not believe it. But here we have the report of May 16, 1942 from the German SS officer, Becker, to his supervisor in Berlin which tells this story: (Document No. 656-PS.)

Gas vans in C. group can be driven to execution spot, which is generally stationed 10 to 15 kms. from main road only in dry weather. Since those to be executed become frantic if conducted to this place, such vans become immobilized in wet weather. (Letter, p. 1.)

Gas vans in D. group camouflaged as cabin trailers, but vehicles well known to authorities and civilian population which calls them 'Death Vans'. (Letter, p. 2.)

Writer of letter (Becker) ordered all men to keep as far away as possible during gassing. Unloading van has 'atrocious spiritual and physical effect' on men and they should be ordered not to participate in such work. (Letter, p. 2.)

I shall not dwell on this subject longer than to quote one more sickening document which evidences the planned and systematic character of the Jewish persecutions. I hold a report written with Teutonic devotion to detail, illustrated with photographs to authenticate its almost incredible text, and beautifully bound in leather with the loving care bestowed on a proud work. It is the original report of the SS Brigadier General Stroop in charge of the destruction of the Warsaw Ghetto, and its title page carries the inscription, "The Jewish Ghetto in Warsaw no longer exists." It is characteristic that one of the captions explains that the photograph concerned shows the driving out of Jewish "bandits"; those whom the photograph shows being driven out are almost entirely women and little children. It contains a day-by-day account of the killings mainly carried out by the SS organization, too long to relate, but let me quote his own summary: (Document no. 1061-PS, p. 5.)

General Stroop's report relates the following:

"The resistance put up by the Jews and bandits could only be suppressed by energetic actions of our troops day and night. The Reichsfuehrer SS ordered, therefore, on 23 April 1943 the cleaning out of the ghetto with utter ruthlessness and merciless tenacity. I therefore, decided

H0001 - 0032

to destroy and burn down the entire ghetto without regard to the armament factories. These factories were systematically dismantled and then burned. Jews usually left their hideouts, but frequently remained in the burning buildings and jumped out of the windows only when the heat became unbearable. They then tried to crawl with broken bones across the street into buildings which were not afire. Sometimes they changed their hideouts during the night into the ruins of burned buildings. Life in the sewers was not pleasant after the first week. Many times we could hear loud voices in the sewers. SS men or policemen climbed bravely through the manholes to capture these Jews. Sometimes they stumbled over Jewish corpses; sometimes they were shot at. Tear gas bombs were thrown into the manholes and the Jews driven out of the sewers and captured. Countless numbers of Jews were liquidated in sewers and bunkers through blasting. The longer the resistance continued the tougher became the members of the Waffen SS police and Wehrmacht who always discharged their duties in an exemplary manner. Frequently Jews who tried to replenish their food supplies during the night or to communicate with neighboring groups were exterminated."

This action eliminated, says the SS commander, "a proved total of 56,065. To what we have to add the number of those killed through blasting, fire, etc., which cannot be counted."

We charge that all atrocities against Jews were the manifestation and culmination of the Nazi plan to which every defendant here was a party. I know very well that some of these men did take steps to spare some particular Jew for some personal reason from the horrors that awaited the unrescued Jew. Some protested that particular atrocities were excessive, and discredited the general policy. While a few defendants may show efforts to make specific exceptions to the policy of Jewish extermination, I have found no instance in which any defendant opposed the policy itself or sought to revoke or even modify it.

Determination to destroy the Jews was a binding force which at all times cemented the elements of this conspiracy. On many internal policies there were differences among the defendants. But there is not one of them who has not echoed the rallying cry of Naziism - DEUTSCHLAND ERWACHE, JUDA VERRECKE! (GERMANY AWAKE, JEWRY PERISH!)

H0001 - 0033

TERRORISM AND PREPARATION FOR WAR.

How a Government treats its own inhabitants generally is thought to be no concern of other Governments or of international society. Certainly few oppressions or cruelties would warrant the intervention of foreign powers. But the German mistreatment of Germans is now known to pass in magnitude and savagery any limits of what is tolerable by modern civilization. Other nations, by silence, would take a consenting part in such crimes. These Nazi persecutions, moreover, take character as international crimes because of the purpose for which they were undertaken.

The purpose, as we have seen, of getting rid of the influence of free labor, the churches, and the Jews was to clear their obstruction to the precipitation of aggressive war. If aggressive warfare in violation of treaty obligation is a matter of international cognizance, the preparations for it must also be of concern to the international community. Terrorism was the chief instrument for securing the cohesion of the German people in war purposes. Moreover, these cruelties in Germany served as atrocity practice to discipline the membership of the criminal organization to follow the pattern later in occupied countries.

Through the police formations that before you are accused as criminal organizations, the Nazi Party leaders, aided at some point in their basic and notorious purpose by each of the individual defendants instituted a reign of terror. These espionage and police organizations were utilized to hunt down every form of opposition and to penalize every noncomformity. These organizations early founded and administered concentration camps - Buchenwald in 1933, Dachau in 1934. But these notorious names were not alone. Concentration camps came to dot the German map and to number scores. At first they met with resistance from some Germans. We have a captured letter from Minister of Justice Guertner to Hitler which is revealing. (Document No. 787-PS.) A gestapo official had prosecuted for crimes committed in the camp at Hohnstein, and the Nazi Governor of Saxony had promptly asked that the proceeding be quashed. The Minister of Justice in June of 1935 protested because, as he said:

> In this camp unusually grave mistreatments of prisoners has occurred at least since Summer 1933. The prisoners not only

H0001 - 0034

were beaten with whips without cause, similarly as in the Concentration Camp Bredow near Stettin till they lost consciousness, but they were also tortured in other manners, e.g. with the help of a dripping apparatus constructed exclusively for this purpose, under which prisoners had to stand until they were suffering from serious purulent wounds of the scalp. . ."

I shall not take time to detail the ghastly proceedings in these concentration camps. Beatings, starvings, tortures, and killings were routine -- so routine that the tormenters became blase and careless. We will show you a report of discovery that in Ploetzens one night, 186 persons were executed while there were orders for only 180. (Document No. 653-PS.) Another report describes how the family of one victim received two urns of ashes by mistake. (Document No. 843-PS.) Inmates were compelled to execute each other. In 1942, they were paid five Reichsmarks per execution, but on June 27, 1942, SS General Gluecks ordered commandants of all concentration camps to reduce this honorarium to three cigarettes. (Document No. 1934-PS.) In 1943, the Reichs leader of the SS and Chief of German Police ordered the corporal punishments on Russian women to be applied by Polish women and vice versa, but the price was not frozen. "As reward, a few cigarettes" was authorized. (Document No. 804-PS.) Under the Nazis, human life had been progressively devalued until it finally became worth less than a handful of tobacco - ersatz tobacco. There were, however, some traces of the milk of human kindness. On August 11, 1942, an order went from Himmler to the commanders of fourteen concentration camps that "only German prisoners are allowed to beat other German prisoners." (Document No. 1654-PS.)

Mystery and suspense was added in order to spread torture from the inmate to his family and friends. Men and women disappeared from their homes or business or from the streets, and no word came of them. The omission of notice was not due to overworked staff; it was due to policy. The Chief of the SD and Sipo reported that in accordance with orders from the Fuehrer anxiety should be created in the minds of the family of the arrested person. (Document No. 668-PS.) Deportations and secret arrests were labeled, with a Nazi wit which seems a little ghoulish, "Nacht und Nebel" (Night and Fog) (Document No. 833-PS.)

H0001 - 0035

To clumsy cruelty, scientific skill was added. "Undesirables" were exterminated by injection of drugs into the bloodstream, by asphyxiation in gas chambers. They were shot with poison bullets, to study the effects. (Document No. 1974-PS.)

Then, to cruel experiments the Nazi added obscene ones. These were not the work of underling degenerates but of master minds high in the Nazi conspiracy. On May 20, 1942, General Field Marshal Milch authorized SS General Wolff to go ahead at Dachau Camp with so-called "cold experiments"; and four female gypsies were supplied for the purpose. (Document No. 400-PS.) Himmler gave permission to carry on these "experiments" also in Auschwitz and Lublin camps. (Document No. 1615-PS.) (Document No. 1617-PS.) (Document 1971-PS.) At Dachau, the reports of the "doctor" in charge show that victims were immersed in cold water until their body temperature was reduced to 28 degrees centigrade (82.4 degrees Farenheit), when they all died immediately. (Document No. 1618-PS.) This was in August 1942. But the "doctor's" technique improved. By February, 1943, he was able to report that thirty persons were chilled to 27 to 29 degrees, their hands and feet frozen white, and their bodies "rewarmed" by a hot bath. But the Nazi scientific triump was "rewarming with animal heat." The victim, all but frozen to death, was surrounded with bodies of living women until he revived and responded to his environment by having sexual intercourse. (Reports of Dr. Rascher, Document No. 1616-PS.) Here Nazi degeneracy reached its nadir.

I dislike to encumber the record with such morbid tales, but we are in the grim business of trying men as criminals, and these are the things their own agents say happened. We will show you these concentration camps in motion pictures, just as the Allied armies found them when they arrived, and the measures General Eisenhower had to take to clean them up. Our proof will be disgusting and you will say I have robbed you of your sleep. But these are the things which have turned the stomach of the world and set every civilized hand against Nazi Germany.

H0001-0036

Germany became one vast torture chamber. Cries of its victims were heard round the world and brought shudders to civilized people everywhere. I am one who received during this war most atrocity tales with suspicion and skepticism. But the proof here will be so overwhelming that I venture to predict not one word I have spoken will be denied. These defendants will only deny personal responsibility or knowledge.

Under the clutch of the most intricate web of espionage and intrigue that any modern state has endured, and persecution and torture of a kind that has not been visited upon the world in many centuries, the elements of the German population which were both decent and courageous were annihilated. Those which were decent but weak were intimidated. Open resistance, which had never been more than feeble and irresolute, disappeared. But resistance, I am happy to say, always remained, although it was manifest in only such events as the abortive effort to assassinate Hitler on July 20, 1944. With resistance driven underground, the Nazi had the German State in his own hands.

But the Nazis not only silenced discordant voices. They created positive controls as effective as their negative ones. Propaganda organs, on a scale never before known, stimulated the party and party formations with a permanent enthusiasm and abandon such as we democratic people can work up only for a few days before a general election. They inculcated and practiced the Fuehrerprinzip which centralized control of the Party and of the Party-controlled state over the lives and thought of the German people, who are accustomed to look upon the German State by whomever controlled with a mysticism that is incomprehensible to my people.

All these controls from their inception were exerted with unparalleled energy and singlemindedness to put Germany on a war footing. We will show from the Nazis' own documents their secret training of military personnel, their secret creation of a military air force. Finally, a conscript army was brought into being. Financiers, economists, industrialists, joined in the plan and promoted elaborate alterations in industry and finance to support an unprecedented concentration of resources and energies upon

H0001-0037

preparations for war. Germany's rearmament so outstripped the strength of her neighbors that in about a year she was able to crush the whole military force of Continental Europe, exclusive of that of Soviet Russia, and then to push the Russian armies back to the Volga. These preparations were of a magnitude which surpassed all need of defense and every defendant, and every intelligent German, well understood them to be for aggressive purposes.

EXPERIMENTS IN AGGRESSION

Before resorting to open aggressive warfare, the Nazis undertook some rather cautious experiments to test the spirit and resistance of those who lay across their path. They advanced, but only as others yielded, and kept in a position to draw back if they found a temper that made persistence dangerous.

On 7 March 1936, the Nazis reoccupied the Rhineland and then proceeded to fortify it in violation of the Treaty of Versailles and the Pact of Locarno. They encountered no substantial resistance and were emboldened to take the next step, which was the acquisition of Austria. Despite repeated assurances that Germany had no designs on Austria, invasion was perfected. Threat of attack forced Schuschnigg to resign as Chancellor of Austria and put the Nazi defendant Seyss-Inquart in his place. The latter immediately opened the frontier and invited Hitler to invade Austria "to preserve order." On March 12th the invasion began. The next day, Hitler proclaimed himself Chief of the Austrian State, took command of its armed forces, and a law was enacted annexing Austria to Germany.

Threats of aggression had succeeded without arousing resistance. Fears nevertheless had been stirred. They were lulled by an assurance to the Czechoslovak Government that there would be no attack on that country. We will show that the Nazi Government already had detailed plans for the attack. We will lay before you the documents in which these conspirators planned to create an incident to justify their attack. They even gave consideration to assassinating their own Ambassador at Prague in order to

H0001 - 0038

create a sufficiently dramatic incident. They did precipitate a diplomatic crisis which endured through the summer. Hitler set September 28th as the day when troops should be ready for action. Under the threat of immediate war, the United Kingdom and France concluded a pact with Germany and Italy at Munich on September 29, 1938 which required Czechoslovakia to acquiesce in the cession of the Sudetenland to Germany. It was consummated by German occupation on October 1, 1938.

The Munich Pact pledged no further aggression against Czechoslovakia, but the Nazi pledge was lightly given and quickly broken. On the 15th of March, 1939, in defiance of the treaty of Munich itself, the Nazis seized and occupied Bohemia and Moravia, which constituted the major part of Czechoslovakia not already ceded to Germany. Once again the West stood aghast, but it dreaded war, it saw no remedy except war, and it hoped against hope that the Nazi fever for expansion had run its course. But the Nazi world was intoxicated by these unresisted successes in open alliance with Mussolini and covert alliance with Franco. They, having made a deceitful, delaying peace with Russia, the conspirators entered upon the final phase of the plan to renew war.

WAR OF AGGRESSION.

I will not prolong this address by detailing the steps leading to the war of aggression which began with the invasion of Poland on September 1, 1939. The further story will be unfolded to you from documents including those of the German High Command itself. The plans had been laid long in advance. As early as 1935 Hitler appointed the defendant Schacht to the position of "General Deputy for the War Economy." (Document No. 2261-PS.) We have the diary of General Jodl (Document No. 1780-PS); the "Plan Otto," Hitler's own order for attack on Austria in case trickery failed (Document No. C-102); the "Plan Green" which was the blueprint for attack on Czechoslovakia; the plan for the War in the West (Document No. 375-PS.); Funk's letter to Hitler dated August 25, 1939, detailing the long course of economic preparation (Document No. 699-PS); the top secret mobilization order for 1939-40 prescribing secret steps to be taken during a "period

H0001 - 0039

of tension" during which no "'state of war' will be publicly declared even if open war measures against the foreign enemy will be take." This latter order (Document No. 1639-PS.) is in our possession despite a secret order issued on March 16, 1945, when Allied troops were advancing into the heart of Germany, to burn these plans (Document No. 1640-PS). We have also Hitler's directive, dated December 18, 1940, for the "Barbarossa Contingency" outlining the strategy of the attack upon Russia (Document No. 446-PS), we have detailed information concerning "Case White," the plan for attack on Poland (Document No. 2327-PS). Not the least incriminating are the minutes of Hitler's meeting with his high advisors.

As early as November 5, 1937, Hitler told defendants Goering, Raeder, and Neurath, among others, that German rearmament was practically accomplished and that he had decided to secure by force, starting with a lightning attack on Czechoslovakia and Austria, greater living space for Germans in Europe no later than 1943-5 and perhaps as early as 1938. (Document L-12) On the 23rd of May, 1939, the Fuehrer advised his staff that -

> "It is a question of expanding our living space in the East and of securing our food supplies . . . over and above the natural fertility, thoroughgoing German exploitation will enormously increase the surplus."
>
> "There is therefore no question of sparing Poland, and we are left with the decision:
> To attack Poland at the first suitable opportunity.
> We cannot expect a repetition of the Czech affair. There will be war."

On August 22nd, 1939 Hitler again addressed members of the High Command, telling them when the start of military operations would be ordered. He disclosed that for propaganda purposes, he would provocate a good reason. "It will make no difference," he announced, "whether this reason will sound convincing or not. After all, the victor will not be asked whether he talked the truth or not. We have to proceed brutally. The stronger is always right." (Document No. 1014-PS.)

We know the bloody sequel. Frontier incidents were staged. Demands were made for cession of territory. When Poland refused, the German forces invaded on September 1st, 1939. Warsaw was destroyed; Poland fell. The

H0001-0040

Nazis, in accordance with plan, moved swiftly to extend their aggression throughout Europe and to gain the advantage of surprise over their unprepared neighbors. Despite repeated and solemn assurances of peaceful intentions, they invaded Denmark and Norway on 9th April, 1940; Belgium, The Netherlands and Luxembourg on 10th May, 1940; Yugoslavia and Greece on 6th April, 1941.

As part of the Nazi preparation for aggression against Poland and her allies, Germany, on 23rd August, 1939 had entered into a non-aggression pact with Soviet Russia. It was only a delaying treaty intended to be kept no longer than necessary to prepare for its violation. On June 22, 1941, pursuant to long matured plans, the Nazis hurled troops into Soviet territory without any declaration of war. The entire European world was aflame.

CONSPIRACY WITH JAPAN

The Nazi plans of aggression called for use of Asiatic allies and they found among the Japanese men of kindred mind and purpose. They were brothers, under the skin.

Himmler records a conversation he had on January 31, 1939 with General Oshima, Japanese Ambassador at Berlin. He wrote: (Document No. 2195-PS.)

> "Furthermore, he (Oshima) had succeeded up to now to send 10 Russians with bombs across the Caucasian frontier. These Russians had the mission to kill Stalin. A number of additional Russians, whom he had also sent across, had been shot at the frontier."

On September 27th, 1940, the Nazis concluded a German-Italian-Japanese ten-year military and economic alliance by which those powers agreed "to stand by and cooperate with one another in regard to their efforts in Greater East Asia and regions of Europe respectively wherein it is their prime purpose to establish and maintain a new order of things * *."

On March 5, 1941, a top secret directive was issued by defendant Keitel. It stated that "The Fuehrer has ordered instigation of Japan's active participation in the war" and directed that "Japan's military power has to be strengthened by the disclosure of German war experiences and support of a military, economic and technical nature has to be given." The aim was stated to be to crush England quickly and "keep the United States out of this war." (Document Nos. 384-PS and 1489-PS.)

H0001-0041

On March 29, 1941, Ribbentrop told Matsuoka, the Japanese Foreign Minister, that the German Army was ready to strike against Russia. Matsuoka reassured Ribbentrop about the Far East. Japan, he reported, was acting at the moment as though she had no interest whatever in Singapore, but "intends to strike when the right moment comes." (Document No. 1877-PS.) On April 5, Ribbentrop urged Matsuoka that entry of Japan into the war would "hasten the victory" and would be more in the interest of Japan than of Germany since it would give Japan a unique chance to fulfill her national aims and to play a leading part in Eastern Asia. (Document No. 1882-PS.)

The proofs in this case will also show that the leaders of Germany were planning war against the United States from its Atlantic as well as instigating it from its Pacific approaches. A captured memorandum from the Fuehrer's headquarters dated October 29, 1940, signed by General Falkenstein, asks certain information as to air bases and supply and reports further that "The Fuehrer is at present occupied with the question of the occupation of the Atlantic islands with a view to the prosecution of war against America at a later date. Deliberations on this subject are being embarked upon here." (Document No. 376-PS.)

On December 7th, 1941, a day which the late President Roosevelt declared "will live in infamy," victory for German aggression seemed certain. The Wehrmacht was at the gates of Stalingrad. Taking advantage of the situation, and while her plenipotentiaries were creating a diplomatic diversion in Washington, Japan without declaration of war treacherously attacked the United States at Pearl Harbor and the Philippines. Attacks followed swiftly on the British Commonwealth, French Indo-China, and The Netherlands in the Southwest Pacific. These aggressions were met in the only way they could be met, with instant declarations of war and with armed resistance which mounted slowly through many long months of reverse until finally the Axis was crushed to earth and deliverance for its victims was won.

H0001 - 0042

CRIMES IN THE CONDUCT OF WAR

Even the most warlike of peoples have recognized in the name of humanity some limitations on the savagery of warfare. Rules to that end have been embodied in international conventions to which Germany became a party. This code had prescribed certain restraints as to the treatment of belligerents. The enemy was entitled to surrender and to receive quarter and good treatment as a prisoner of war. We will show by German documents that these rights were denied, that prisoners of war were given brutal treatment and often murdered. This was particularly true in the case of captured airmen, often my countrymen.

On June 1, 1944, it was ordered that captured English and American airmen should no longer be granted the status of prisoners of war. They were to be treated as criminals and the Army was ordered to refrain from protecting them against lynching by the populace. (Document No. R-153, R-13, R-19, R-110, R-117, R-118, R-119.) The Nazi Government, through its propaganda agencies, took pains to incite the civilian population to attack and kill airmen who crash-landed. Similarly, we will show Hitler's top secret order that commandos, regardless of condition, were to be killed to the last man after capture. (Document No. 498-PS.) We will show the circulation of secret orders, to be passed orally to civilians that enemy parachutists were to be arrested or liquidated. (Document No. 062-PS.) By such means were murders incited and directed.

This Nazi campaign of ruthless treatment of enemy forces assumed its greatest proportions in the fight against Russia. Eventually all prisoners of war were taken out of control of the Army and put in the hands of Himmler and the SS. (Document 058-PS.) In the East, the German fury spent itself. Russian prisoners were ordered to be branded. (Document No. 1191-PS.) They were starved. (Document No. 1105-PS.) I shall quote passages from a letter written February 28, 1942 by defendant Rosenberg to defendant Keitel: (Document No. 081-PS.)

> "The fate of the Soviet prisoners of war in Germany is on the contrary a tragedy of the greatest extent. Of 3.6 millions of prisoners of war, only several hundred thousand are still able

H0001-0043

to work fully. A large part of them has starved, or died, because of the hazards of the weather. Thousands also died from spotted fever.

The camp commanders have forbidden the civilian population to put food at the disposal of the prisoners, and they have rather let them starve to death.

In many cases, when prisoners of war could no longer keep up on the march because of hunger and exhaustion, they were shot before the eyes of the horrified civilian population, and the corpses were left.

In numerous camps, no shelter for the prisoners of war was provided at all. They lay under the open sky during rain or snow. Even tools were not made available to dig holes or caves.

Finally, the shooting of prisoners of war must be mentioned; For instance, in various camps, all the 'Asiatics' were shot."

Civilized usage and conventions to which Germany was a party had prescribed certain immunities for civilian populations unfortunate enough to dwell in lands overrun by hostile armies. The German occupation forces, controlled or commanded by men on trial before you, committed a long series of outrages against the inhabitants of occupied territory that would be incredible except for captured orders and the captured reports showing the fidelity with which these orders were executed.

We deal here with a phase of common criminality designed by the conspirators as part of the common plan. We can appreciate why these crimes against their Europen enemies were not of a casual character but were planned and disciplined crimes when we get at the reason for them. Hitler told his officers on August 22, 1939 that "The main objective in Poland is the destruction of the enemy and not the reaching of a certain geographical line." (Document No. 1014-PS.) The project of deporting promising youth from occupied territories was approved by Rosenberg on the theory that "a desired weakening of the biological force of the conquered people is being achieved." (Document No. 031-PS.) To Germanize or to destroy was the program. Himmler announced, "Either we win over any good blood that we can use for ourselves and give it a place in our people or, gentlemen -- you may call this cruel, but nature is cruel -- we destroy this blood." As to "racially good types" Himmler further advised, "Therefore, I think that it is our duty to take their children with us,

H0001 - 0044

to remove them from their environment if necessary by robbing or stealing them." (Document L-70.) He urged deportation of Slavic children to deprive potential enemies of future soldiers.

The Nazi purpose was to leave Germany's neighbors so weakened that even if she should eventually lose the war, she would still be the most powerful nation in Europe. Against this background, we must view the plan for ruthless warfare, which means a plan for the commission of war crimes and crimes against humanity.

Hostages in large numbers were demanded and killed. Mass punishments were inflicted, so savage that whole communities were extinguished. Rosenberg was advised of the annilhilation of three unidentified villages in Slovakia. (Document No. 970-PS.) In May of 1943, another village of about 40 farms and 220 inhabitants was ordered wiped out. The entire population was ordered shot, the cattle and property impounded, and the order required that "the village will be destroyed totally by fire." (Document No. 163-PS.) A secret report from Rosenberg's Reich Ministry of Eastern territory reveals that:

> "Food rations allowed the Russian population are so low that they fail to secure their existence and provide only for minimum subsistence of limited duration. The population does not know if they will still live tomorrow. They are faced with death by starvation.
>
> "The roads are clogged by hundreds of thousands of people, sometimes as many as one million according to the estimate of experts, who wander around in search of nourishment.
>
> "Sauckel's action has caused great unrest among the civilians. Russian girls were deloused by men, nude photos in forced positions were taken, women doctors were locked into freight cars for the pleasure of the transport commanders, women in night shirts were fettered and forced through the Russian towns to the railroad station, etc. All this material has been sent to the OKH."

Perhaps the deportation to slave labor was the most horrible and extensive slaving operation in history. On few other subjects is our evidence so abundant or so damaging. I have here a speech of the defendant Frank, Governor General of Poland, made on January 25, 1944 in which he boast, "I have sent 1,300,000 Polish workers into the Reich." (Document No. 095-PS, p. 2.) The defendant Sauckel reported that "out of the five

H0001-0045

million foreign workers who arrived in Germany not even 200,000 came voluntarily." This fact was reported to the Fuehrer and defendants Speer, Goering, and Keitel. (Document No. R-124.) Children of 10 to 14 years were impressed into service. (Document No. 200-PS.) When enough labor was not forthcoming, prioners of war were forced in war work in flagrant violation of international conventions. (Document No. 016-PS.) Slave labor came from France, Belgium, Holland, Italy, and the East. (Document No. 208-PS.) Methods of recruitment were violent. (Documents Nos. R-124, 016-PS, 204-PS.) The treatment of these slave laborers was stated in general terms, not difficult to translate into concrete deprivations, in a letter to the defendant Rosenberg from the defendant Sauckel, which stated: (Document No. 016-PS.)

> "All the men (prisoners of war and foreign civilian workers) must be fed, sheltered and treated in such a way as to exploit them to the highest possible extent at the lowest conceivable degree of expenditure."

In pursuance of the Nazi plan permanently to reduce the living standards of their neighbors and to weaken them physically and economically, a long series of crimes were committed. There was extensive destruction, serving no military purpose, of the property of civilians. Dikes were thrown open in Holland almost at the close of the war not to achieve military ends but to destroy the resources and retard the economy of the thrifty Netherlanders.

There was carefully planned economic syphoning off of the assets of occupied countries. An example of the planning is shown by a report on France dated December 7, 1942 made by the Economic Research Department of the Reichsbank. The question arose whether French occupation costs should be increased from 15 million Reichsmarks per day to 25 million Reichsmarks per day. The Reichsbank analyzed French economy to determine whether it could bear the burden. It pointed out that the armistice had burdened France to that date to the extent of 18½ billion Reichsmarks, equalling 370 billion Francs. It pointed out that the burden of these payments within two and a half years equalled the aggregate French national

H0001 – 0046

income in the year 1940, and that the amount of payments handed over to Germany in the first six months of 1942 corresponded to the estimate for the total French revenue for that whole year. The report concluded, "In any case, the conclusion is inescapable that relatively heavier tributes have been imposed on France since the armistice in June, 1940 that upon Germany after the World War. In this connection, it must be noted that the economic powers of France never equalled those of the German Reich and that vanquished France could not draw on foreign economic and financial resources in the same degree as Germany after the last World war."

The defendant Funk was the Reichs Minister of Economics and President of the Reichsbank; the defendant Ribbentrop was Foreign Minister; the defendant Goering was Plenipotentiary for the Four-Year Plan, and all of them participated in the exchange of views of which this captured document is a part. Notwithstanding this analysis by the Reichsbank, they proceeded to increase the imposition on France from 10 million Reichsmarks daily to 25 million daily. (Document No. 2149-PS.)

It is small wonder that the bottom has been knocked out of French economy. The plan and purpose of the thing appears in a letter from Gernal Stulpnagle, head of the German Armistice Commission, to the defendant Jodl as early as 14th September, 1940 when he wrote, "The slogan 'Systematic weakening of France' has already been surpassed by far in reality." (Document No. 1756-PS.)

Not only was there a purpose to debilitate and demoralize the economy of Germany's neighbors for the purpose of destroying their competitive position, but there was looting and pilfering on an unprecedented scale. We need not be hypocritical about this business of looting. I recognize that no army moves through occupied territory without some pilfering as it goes. Usually the amount of pilfering increases as discipline wanes. If the evidence in this case showed no looting except of that sort, I certainly would ask no conviction of these defendants for it.

H0001-0047

But we will show you that looting was not due to the lack of discipline or to the ordinary weaknesses of human nature. The German organized plundering, planned it, disciplined it, and made it official just as he organized everything else, and then he compiled the most meticulous records to show that he had done the best job of looting that was possible under the circumstances. And we have those records.

The defendant Rosenberg was put in charge of a systematic plundering of the art objects of Europe by direct order of Hitler dated September 17, 1940. On the 16th of April, 1943 Rosenberg reported that up to the 7th of April, 92 railway cars with 2,775 cases containing art objects had been sent to Germany; and that 53 pieces of art had been shipped to Hitler direct, and 594 to the defendant Goering. The report mentioned something like 20,000 pieces of seized art and the main locations where they were stored. (Document No. 015-PS.)

Moreover, this looting was glorified by Rosenberg. Here we have 39 leather-bound tabulated volumes of his inventory, which in due time we will offer in evidence. One cannot but admire the artistry of this Rosenberg report. The Nazi taste was cosmopolitan. Of the 9,455 articles inventoried, there were included 5,255 pointings, 297 sculptures, 1,372 pieces of antique furniture, 307 textiles, and 2,224 small objects of art. Rosenberg observed that there were approximately 10,000 more objects still to be inventoried. (Document No. 015-PS.) Rosenberg himself estimated that the values involved would come close to a billion dollars. (Document No. 090-PS.)

I shall not go into further details of the war crimes and crimes against humanity committed by the Nazi gangster ring whose leaders are before you. It is not the purpose in my part of this case to deal with the individual crimes. I am dealing with the common plan or design for crime and will not dwell upon individual offenses. My task is only to show the scale on which these crimes occurred, and to show that these are the men who were in the responsible positions and who conceived the plan and design which renders them answerable, regardless of the fact that the plan was actually executed by others.

H0001-0048

At length, this reckless and lawless course outraged the world. It recovered from the demoralization of surprise attack, assembled its forces, and stopped these men in their tracks. Once success deserted their banners, one by one the Nazi satellites fell away. Sawdust Caesar collapsed. Resistance forces in every occupied country arose to harry the invader. Even at home, Germans saw that Germany was being led to ruin by these mad men, and the attempt on July 20, 1944 to assassinate Hitler, an attempt fostered by men of highest station, was a desperate effort by internal forces to stop short of ruin. Quarrels broke out among the failing conspirators, and the decline of the Nazi power was more swift than its ascendancy. German armed forces surrendered, its government disintegrated, its leaders committed suicide by the dozen, and by the fortunes of war these defendants fell into our hands. Although they are not by any means all the guilty ones, they are survivors among the most responsible. Their names appear over and over in the documents and their faces grace the photographic evidence. We have here the surviving top politicians, militarists, financiers, diplomats, administrators, and propagandists of the Nazi movement. Who was responsible for these crimes if they were not?

THE LAW OF THE CASE

The end of the war and capture of these prisoners presented the victorious Allies with the question whether there is any legal responsibility on high-ranking men for acts which I have described. Must such wrongs either be ignored or redressed in hot blood? Is there no standard in the law for a deliberate and reasoned judgment on such conduct?

The Charter of this Tribunal evidences a faith that the law is not only to govern the conduct of little men, but that even rulers are, as Lord Chief Justice Coke put it to King James, "under God and the law." The United States believed that the law long has afforded standards by which a juridical hearing could be conducted to which would make sure that we punish only the right men and for the right reasons. Following the instructions of the late President Roosevelt and the decision of the Yalta conference, President Truman directed representatives of the United

H0001-0049

States to f ormulate a proposed International Agreement, which was submitted during the San Francisco Conference to Foreign Ministers of the United Kingdom, the Soviet Union, and the Provisional Government of France. With many modifications, that proposal has become the Charter of this Tribunal.

But the Agreement which sets up the standards by which these prisoners are to be judged does not express the views of the signatory nations alone. Other nations with diverse but highly respected systems of jurisprudence also have signified adherence to it. These are Belgium, The Netherlands, Denmark, Norway, Czechoslovakia, Luxembourg, Poland, Greece, Yugoslavia, Ethiopia, Australia, Haiti, Honduras, and Panama. You judge, therefore, under an organic act which represents the wisdom, the sense of justice, and the will of eighteen governments, representing an overwhelming majority of all civilized people.

The Charter by which this Tribunal has its being embodies certain legal concepts which are inseparable from its jurisdiction and which must govern its decision. These, as I have said, also are conditions attached to the grant of any hearing to defendants. The validity of the provisions of the Charter is conclusive upon us all whether we have accepted the duty of judging or of prosecuting under it, as well as upon the defendants, who can point to no other law which gives them a right to be heard at all. My able and experienced colleagues believe, as do I, that it will contribute to the expedition and clarity of this trial if I expound briefly the application of the legal philosophy of the Charter to the facts I have recited.

While this declaration of the law by the Charter is final, it may be contended that the prisoners on trial are entitled to have it applied to their conduct only most charitably if at all. It may be said that this is new law, not authoritatively declared at the time they did the acts it condemns, and that this declaration of the law has taken them by surprise.

H0001-0050

I cannot, of course, deny that these men are surprised that this is the law; they really are surprised that there is any such thing as law. These defendants did not rely on any law at all. Their program ignored and defied all law. That this is so will appear from many acts and statements, of which I cite but a few. In the Fuehrer's speech to all military commanders on November 23, 1939, he reminded them that at the moment Germany had a pact with Russia, but declared, "Agreements are to be kept only as long as they serve a certain purpose." Later on in the same speech he announced, "A violation of the neutrality of Holland and Belgium will be of no importance." (Document No. 789-PS, pp. 5 and 11.) A Top Secret document, entitled "Warfare as a Problem of Organization," dispatched by the Chief of the High Command to all Commanders on April 19, 1938, declared that "the normal rules of war toward neutrals may be considered to apply on the basis whether operation of rules will create greater advantages or disadvantages for belligerents." (Document No. L-211, p. 28 of translation.) And from the files of the German Navy Staff, we have a "Memorandum on Intensified Naval War," dated October 15, 1939, which begins by stating a desire to comply with International Law. "However," it continues, "if decisive successes are expected from any measure considered as a war necessity, it must be carried through even if it is not in agreement with international law." (Document No. L-84, p. 3) International Law, natural law, German law, any law at all was to these men simply a propaganda device to be invoked when it helped and to be ignored when it would condemn what they wanted to do. That men may be protected in relying upon the law at the time they act is the reason we find laws of retrospective operation unjust. But these men cannot bring themselves within the reason of the rule which in some systems of jurisprudence prohibits ex post facto laws. They cannot show that they ever relied upon International Law in any state or paid it the slightest regard.

H0001 - 0051

The Third Count of the Indictment is based on the definition of war crimes contained in the Charter. I have outlined to you the systematic course of conduct toward civilian populations and combat forces which violates international conventions to which Germany was a party. Of the criminal nature of these acts at least, the defendants had, as we shall show, clear knowledge. Accordingly, they took pains to conceal their violations. It will appear that the defendants Keitel and Jodl were informed by official legal advisors that the orders to brand Russian prisoners of war, to shackle British prisoners of war, and to execute commando prisoners were clear violations of International Law. Nevertheless, these orders were put into effect. The same is true of orders issued for the assassination of General Giraud and General Weygand, which failed to be executed only because of a ruse on the part of Admiral Canaris, who was himself later executed for his part in the plot to take Hitler's life on July 20, 1944.

The Fourth Count of the Indictment is based on crimes against humanity. Chief among these are mass killings of countless human beings in cold blood. Does it take these men by surprise that murder is treated as a crime?

The First and Second Counts of the Indictment add to these crimes the crime of plotting and waging wars of aggression and wars in violation of nine treaties to which Germany was a party. There was a time, in fact I think the time of the first World War, when it could not have been said that war inciting or war asking was a crime in law, however reprehensible in morals.

Of course, it was under the law of all civilized peoples a crime for one man with his bare knuckles to assault another. How did it come that multiplying this crime by a million, and adding fire arms to bare knuckles, made a legally innocent act? The doctrine was that one could not be regarded as criminal for committing the usual violent acts in the conduct of legitimate warfare. The age of imperialistic expansion during the Eighteenth and Nineteenth Centuries added the foul doctrine, contrary

H0001 – 0052

to the teachings of early Christian and International Law scholars such as Grotius, that all wars are to be regarded as legitimate wars. The sum of these two doctrines was to give war making a complete immunity from accountability to law.

This was intolerable for an age that called itself civilized. Plain people, with their earthy common sense, revolted at such fictions and legalisms so contrary to ethical principles and demanded checks on war immunity. Statesmen and international lawyers at first cautiously responded by adopting rules of warfare designed to make the conduct of war more civilized. The effort was to set legal limits to the violence that could be done to civilian populations and to combatants as well.

The common sense of men after the First World War demanded, however, that the law's condemnation of war reach deeper, and that the law condemn not merely uncivilized ways of waging war, but also the waging in any way of uncivilized wars - wars of aggression. The world's statesmen again went only as far as they were forced to go. Their efforts were timid and cautious and often less explicit than we might have hoped. But the 1920's did outlaw aggressive war.

The reestablishment of the principle that there are unjust wars and that unjust wars are illegal is traceable in many steps. One of the most significant is the Briand-Kellogg Pact of 1928, by which Germany, Italy, and Japan, in common with practically all the nations of the world, renounced war as an instrument of national policy, bound themselves to seek the settlement of disputes only by pacific means, and condemned recourse to war for the solution of international controversies. This pact altered the legal status of a war of aggression. As Mr. Stimson, the United States Secretary of State put it in 1932, such a war "is no longer to be the source and subject of rights. It is no longer to be the principle around which the duties, the conduct, and the rights of nations revolve. It is an illegal thing. * * *By that very act, we have made obsolete many legal precedents and have given the legal profession the task of reexamining many of its codes and treaties."

H0001 – 0053

The Geneva Protocol of 1924 for the Pacific Settlement of International Disputes, signed by the representatives of forty-eight governments, declared that "a war of aggression constitutes * * * an international crime." The Eighth Assembly of the League of Nations in 1927, on unanimous resolution of the representatives of forty-eight member nations, including Germany, declared that a war of aggression constitutes an international crime. At the Sixth Pan-American Conference of 1928, the twenty-one American Republics unanimously adopted a resolution stating that "war of aggression constitutes an international crime against the human species."

A failure of these Nazis to heed, or to understand the force and meaning of this evolution in the legal thought of the world is not a defense or a mitigation. If anything, it aggravates their offense and makes it the more mandatory that the law they have flouted be vindicated by juridical application to their lawless conduct. Indeed, by their own law — had they heeded any law — these principles were binding on these defendants. Article 4 of the Weimar Constitution provided that "The generally accepted rules of international law are to be considered as binding integral parts of the law of the German Reich." (Document No. 2050-PS.) Can there be any doubt that the outlawry of aggressive war was one of the "generally accepted rules of international law" in 1939?

Any resort to war - to any kind of a war - is a resort to means that are inherently criminal. War inevitably is a course of killings, assaults, deprivations of liberty, and destruction of property. An honestly defensive war is, of course, legal and saves those lawfully conducting it from criminality. But inherently criminal acts cannot be defended by showing that those who committed them were engaged in a war, when war itself is illegal. The very minimum legal consequence of the treaties making aggressive wars illegal is to strip those who incite or wage them of every defense the law ever gave, and to leave warmakers subject to judgment by the usually accepted principles of the law of crimes.

H0001-0054

But if it be thought that the Charter, whose declarations concededly bind us all, does contain new law I still do not shrink from demanding its strict application by this Tribunal. The rule of law in the world, flouted by the lawlessness incited by these defendants, had to be restored at the cost to my country of over a million casualties, not to mention those of other nations. I cannot subscribe to the perverted reasoning that society may advance and strengthen the rule of law by the expenditure of morally innocent lives but that progress in the law may never be made at the price of morally guilty lives.

It is true, of course, that we have no judicial precedent for the Charter. But International Law is more than a scholarly collection of abstract and immutable principles. It is an outgrowth of treaties and aggreements between nations and of accepted customs. Yet every custom has its origin in some single act, and every agreement has to be initiated by the action of some state. Unless we are prepared to abandon every principle of growth for International Law, we cannot deny that our own day has the right to institute customs and to conclude agreements that will themselves become sources of a newer and strengthend International Law. International Law is not capable of development by the normal processes of legislation for there is no cintinuing international legislative authority. Innovations and revisions in International Law are brought about by the action of governments designed to meet a change in circumstances. It grows, as did the Common Law, through decisions reached from time to time in adapting settled principles to new situations. The fact is that when the law evolves by the case method, as did the Common Law and as International Law must do if it is to advance at all, it advances at the expense of those who wrongly guessed the law and learned too late their error. The law, so far as International Law can be decreed, had been clearly pronounced when these acts took place. Hence, I am not disturbed by the lack of judicial precedent for the inquiry we propose to conduct.

The events I have earlier recited clearly fall within the standards of crimes, set out in the Charter, whose perpetrators this Tribunal is convened to judge and punish fittingly. The standards for war crimes and crimes against humanity are too familiar to need comment. There are, however, certain novel problems in applying other precepts of the Charter which I should call to your attention.

H0001-0055

THE CRIME AGAINST PEACE

A basic provision of the Charter is that to plan, prepare, initiate, or wage a war of aggression, or a war in violation of international treaties, agreements, and assurances, or to conspire or participate in a common plan to do so is a crime.

It is perhaps a weakness in this Charter that it fails itself to define a war of aggression. Abstractly, the subject is full of difficulty and all kinds of troublesome hypothetical cases can be conjured up. It is a subject which, if the defense should be permitted to go afield beyond the very narrow charge in the Indictment, would prolong the trial and involve the Tribunal in insoluble political issues. But so far as the question can properly be involved in this case, the issue is one of no novelty and is one on which legal opinion has well crystalized.

One of the most authoritative sources of International Law on this subject is the Convention for the Definition of Aggression signed at London on July 3, 1933 by Roumania, Estonia, Latvia, Poland, Turkey, The Soviet Union, Persia, and Afghanistan. The subject has also been considered by international committees and by commentators whose views are entitled to the greatest respect. It had been little discussed prior to the First World War but has received much attention as International Law has evolved its outlawry of aggressive war. In the light of these materials of International Law, and so far as relevant to the evidence in this case, I suggest that an "aggressor" is generally held to be that state which is the first to commit any of the following actions:

(1) Declaration of war upon another State;

(2) Invasion by its armed forces, with or without a declaration war, of the territory of another State;

(3) Attack by its land, naval, or air forces, with or without a declaration of war, on the territory, vessels, or aircraft of another State;

H0001 - 0056

(4) Provision of support to armed bands formed in the territory of another State, or refusal, notwithstanding the request of the invaded State, to take in its own territory, all the measures in its power to deprive those bands of all assistance or protection.

And I further suggest that it is the general view that no political, military, economic or other considerations shall serve as an excuse or justification for such actions; but exercise of the right of legitimate self-defense, that is to say, resistance to an act of aggression, or action to assist a State which has been subjected to aggression, shall not constitute a war of aggression.

It is upon such an understanding of the law that our evidence of a conspiracy to provoke and wage an aggressive war is prepared and presented. By this test each of the series of wars begun by these Nazi leaders was unambiguously aggressive.

It is important to the duration and scope of this trial that we bear in mind the difference between our charge that this war was one of aggression and a position that Germany had no grievances. We are not inquiring into the conditions which contributed to causing this war. They are for history to unravel. It is no part of our task to vindicate the European status quo as of 1933, or as of any other date. The United States does not desire to enter into discussion of the complicated pre-war currents of European politics, and it hopes this trial will not be protracted by their consideration. The remote causations avowed are too insincere and inconsistent, too complicated and doctrinaire to be the subject of profitable inquiry in this trial. A familiar example is to be found in the "Lebensraum" slogan, which summarized the contention that Germany needed more living space as a justification for expansion. At the same time that the Nazis were demanding more space for the German people, they were demanding more German people to occupy space. Every known means to increase the birth rate, legitimate and illegitimate, was utilized. "Lebensraum" represented a vicious circle of demand -- from neighbors more space, and from Germans more progeny. We do not need to investigate the

H0001-0057

verity of doctrines which led to constantly expanding circles of aggression. It is the plot and the act of aggression which we charge to be crimes.

Our position is that whatever grievances a nation may have, however objectionable it finds the status quo, aggressive warfare is an illegal means for settling those grievances or for altering those conditions. It may be that the Germany of the 1920's and 1930's faced desperate problems, problems that would have warranted the boldest measures short of war. All other methods - persuasion, propaganda, economic competiton, diplomacy - were open to an aggrieved country, but aggressive warfare was outlawed. These defendants did make aggressive war, a war in violation of treaties. They did attack and invade their neighbors in order to effectuate a foreign policy which they knew could not be accomplished by measures short of war. And that is as far as we accuse or propose to inquire.

THE LAW OF INDIVIDUAL RESPONSIBILITY

The Charter also recognizes individual responsibility on the part of those who commit acts defined as crimes, or who incite others to do so, or who join a common plan with other persons, groups or organizations to bring about their commission. The principle of individual responsibility for piracy and brigandage, which have long been recognized as crimes punishable under International Law, is old and well established. That is what illegal warfare is. This principle of personal liability is a necessary as well as logical one if International Law is to render real help to the maintenance of peace. An International Law which operates only on states can be enforced only by war because the most practicable method of coercing a state is warfare. Those familiar with American history know that one of the compelling reasons for adoption of our Constitution was that the laws of the Confederation, which operated only on constituent states, were found ineffective to maintain order among them. The only answer

H0001 - 0058

to recalcitrance was impotence or war. Only sanctions which reach individuals can peacefully and effectively be enforced. Hence, the principle of the criminality of aggressive war is implemented by the Charter with the principle of personal responsibility.

Of course, the idea that a state, any more than a corporation, commits crimes is a fiction. Crimes always are committed only by persons. While it is quite proper to employ the fiction of responsibility of a state or corporation for the purpose of imposing a collective liability, it is quite intolerable to let such a legalism become the basis of personal immunity.

The Charter recognizes that one who has committed criminal acts may not take refuge in superior orders nor in the doctrine that his crimes were acts of states. These twin principles working together have heretofore resulted in immunity for practically everyone concerned in the really great crimes against peace and mankind. Those in lower ranks were protected against liability by the orders of their superiors. The superiors were protected because their orders were called acts of state. Under the Charter, no defense based on either of these doctrines can be entertained. Modern civilization puts unlimited weapons of destruction in the hands of men. It cannot tolerate so vast an area of legal irresponsibility.

Even the German Military Code provides that:

> "If the execution of a military order in the course of duty violates the criminal law, then the superior officer giving the order will bear the sole responsibility therefor. However, the obeying subordinate will share the punishment of the participant: (1) if he has exceeded the order given to him, or (2) if it was within his knowledge that the order of his superior officer concerned an act by which it was intended to commit a civil or military crime or transgression." (Reichsgesetzblatt 1926 No. 37, p. 278, Art. 47.)

Of course, we do not argue that the circumstances under which one commits an act should be disregarded in judging its legal effect. A conscripted private on a firing squad cannot expect to hold an inquest on the validity of the execution. The Charter implies common sense limits to liability just as it places common sense limits upon immunity.

H0001-0059

But none of these men before you acted in minor parts. Each of them was entrusted with broad discretion and exercised great power. Their responsibility is correspondingly great and may not be shifted to that fictional being, "the State", which can not be produced for trial, can not testify, and can not be sentenced.

The Charter also recognizes a vicarious liability, which responsibility is recognized by most modern systems of law, for acts committed by others in carrying out a common plan or conspiracy to which defendant has become a party. I need not discuss the familiar principles of such liability. Every day in the courts of countries associated in this prosecution, men are convicted for acts that they did not personally commit but for which they were held responsible because of membership in illegal combinations or plans or conspiracies.

THE POLITICAL, POLICE, AND MILITARY ORGANIZATIONS

Accused before this Tribunal as criminal organizations are certain political and police organizations which the evidence will show to have been instruments of cohesion in planning and executing the crimes I have detailed. Perhaps the worst of the movement were the Leadership Corps of the NSDAP, the Schultzstaffeln or "SS", and the Sturmabteilungen or "SA", and the subsidiary formations which these include. These were the Nazi Party leadership, espionage, and policing groups. They were the real government, above and outside of any law. Also accused as organizations are the Reich Cabinet and the Secret State Police, or Gestapo, which were fixtures of the Government but animated solely by the Nazi Party.

Except for a late period when some compulsory recruiting was done in the SS, membership in all these militarized formations was voluntary. The police organizations were recruited from ardent partisans who enlisted blindly to do the dirty work the leaders planned. The Reich Cabinet was the governmental facade for Nazi Party Government and in its members legal as well as actual responsibility was vested for the entire program. Collectively they were responsible for the program in

H0001 - 0060

general, individually they were especially responsible for segments of it. The finding which we ask you to make, that these are criminal organizations, will subject members to punishment to be hereafter determined by appropriate tribunals, unless some personal defense - such as becoming a member under threat to person, to to family, or inducement by false representation, or the like - be established. Every member will have a chance to be heard in the subsequent forum on his personal relation to the organization, but your finding in this trial will conclusively establish the criminal character of the organization as a whole.

We have also accused as criminal organizations the High Command and the General Staff of the German Armed Forces. We recognize that to plan warfare is the business of professional soldiers in every country. But it is one thing to plan strategic moves in the event war comes, and it is another thing to plot and intrigue to bring on that war. We will prove the leaders of the German General Staff and of the High Command to have been guilty of just that. Military men are not before you because they served their country. They are here because they mastered it, along with these others, and drove it to war. They are not here because they lost the war but because they started it. Politicians may have thought of them as soldiers, but soldiers know they were politicians. We ask that the General Staff and the High Command, as defined in the Indictment, be condemned as a criminal group whose existence and tradition constitute a standing menace to the peace of the world.

These individual defendants did not stand alone in crime and will not stand alone in punishment. Your verdict of "guilty" against these organizations will render prima facie guilty, as nearly as we can learn, thousands upon thousands of members now in custody of United States forces and of other Armies.

H0001-0061

THE RESPONSIBILITY OF THIS TRIBUNAL

To apply the sanctions of the law to those whose conduct is found criminal by the standards I have outlined, is the responsibility committed to this Tribunal. It is the first court ever to undertake the difficult task of overcoming the confusion of many tongues and the conflicting concepts of just procedure among divers systems of law, so as to reach a common judgment. The tasks of all of us are such as to make heavy demands on patience and good will. Although the need for prompt action has admittedly resulted in imperfect work on the part of the prosecution, our great nations bring you their hurriedly assembled contributions of evidence. What remains undiscovered we can only guess. We could, with witnesses' testimony, prolong the recitals of crime for years - but to what avail? We shall rest the case when we have offered what seems convincing and adequate proof of the crimes charged without unnecessary cumulation of evidence. We doubt very much whether it will be seriously denied that the crimes I have outlined took place. The effort will undoubtedly be to mitigate or escape personal responsibility.

Among the nations which unite in accusing these defendants the United States is perhaps in a position to be the most dispassionate, for, having sustained the least injury, it is perhaps the least animated by vengeance. Our American cities have not been bombed by day and by night, by humans and by robots. It is not our temples that have been laid in ruins. Our countrymen have not had their homes destroyed over their heads. The menace of Nazi aggression, except to those in actual service, has seemed less personal and immediate to us than to European peoples. But while the United States is not first in rancor, it is not second in determination that the forces of law and order be made equal to the task of dealing with such international lawlessness as I have recited here.

Twice in my lifetime, the United States has sent its young manhood across the Atlantic, drained its resources, and burdened itself with debt to help defeat Germany. But the real hope and faith that has

H0001-0062

sustained the American people in these great efforts was that victory for ourselves and our Allies would lay the basis for an ordered international relationship in Europe and would end the centuries of strife on this embattled continent.

Twice we have held back in the early stages of European conflict in the belief that it might be confined to a purely European affair. In the United States, we have tried to build an economy without armament, a system of government without militarism, and a society where men are not regimented for war. This purpose, we know now, can never be realized if the world periodically is to be embroiled in war. The United States cannot, generation after generation, throw its youth or its resources onto the battlefields of Europe to redress the lack of balance between Germany's strength and that of her enemies, and to keep the battles from our shores.

The American dream of a peace and plenty economy, as well as the hopes of other nations, can never be fulfilled if those nations are involved in a war every generation so vast and devastating as to crush the generation that fights and burden the generation that follows. But experience has shown that wars are no longer local. All modern wars become world wars eventually. And none of the big nations at least can stay out. If we cannot stay out of wars, our only hope is to prevent wars.

I am too well aware of the weaknesses of juridical action alone to contend that in itself your decision under this Charter can prevent future wars. Judicial action always comes after the event. Wars are started only on the theory and in the confidence that they can be won. Personal punishment, to be suffered only in the event the war is lost, will probably not be a sufficient deterent to prevent a war where the warmakers feel the chances of defeat to be negligible.

But the ultimate step in avoiding periodic wars, which are inevitable in a system of international lawlessness, is to make statesmen responsible to law. And let me make clear that while this law is

H0001-0063

first applied against German aggressors, the law includes, and if it is to serve a useful purpose it must condemn aggression by any other nations, including those which sit here now in judgment. We are able to do away with domestic tyranny and violence and aggression by those in power against the rights of their own people only when we make all men answerable to the law. This trial represents mankind's desperate effort to apply the discipline of the law to statesmen who have used their powers of state to attack the foundations of the world's peace and to commit aggressions against the rights of their neighbors.

The usefulness of this effort to do justice is not to be measured by considering the law or your judgment in isolation. This trial is part of the great effort to make the peace more secure. One step in this direction is the United States organization, which may take joint political action to prevent war if possible, and joint military action to insure that any nation which starts a war will lose it. This Charter and this trial, implementing the Kellogg-Briand Pact, constitute another step in the same direction - juridical action of a kind to ensure that those who start a war will pay for it personally.

While the defendants and the prosecutors stand before you as individuals, it is not the triumph of either group alone that is committed to your judgment. Above all personalities there are anonymous and impersonal forces whose conflict makes up much of human history. It is yours to throw the stength of the law back of either the one or the other of these forces for at least another generation. What are the real forces that are contending before you?

No charity can disguise the fact that the forces which these defendants represent, the forces that would advantage and delight in their acquittal, are the darkest and most sinister forces in society - dictatorship and oppression, malevolence and passion, militarism and lawlessness. By their fruits we best know them. Their acts have bathed the world in blood and set civilization back a century. They have subjected their European neighbors to every outrage and torture,

H0001-0064

every spoliation and deprivation that insolence, cruelty, and greed could inflict. They have brought the German people to the lowest pitch of wretchedness, from which they can entertain no hope of early deliverance. They have stirred hatreds and incited domestic violence on every continent. These are the things that stand in the dock shoulder to shoulder with these prisoners.

The real complaining party at your bar is Civilization. In all our countries it is still a struggling and imperfect thing. It does not plead that the United States, or any other country, has been blameless of the conditions which made the German people easy victims to the blandishments and intimidations of the Nazi conspirators.

But it points to the dreadful sequence of aggressions and crimes I have recited, it points to the weariness of flesh, the exhaustion of resources, and the destruction of all that was beautiful or useful in so much of the world, and to greater potentialities for destruction in the days to come. It is not necessary among ruins of this ancient and beautiful city, with untold members of its civilian inhabitants still buried in its rubble, to argue the proposition that to start or wage an aggressive war has the moral qualities of the worst of crimes. The refuge of the defendants can be only their hope that International Law will lag so far behind the moral sense of mankind that conduct which is crime in the moral sense must be regarded as innocent in law.

Civilization asks whether law is so laggard as to be utterly helpless to deal with crimes of this magnitude by criminals of this order of importance. It does not expect that you can make war impossible. It does expect that your juridical action will put the forces of International Law, its precepts, its prohibitions and, most of all, its sanctions, on the side of peace, so that men and women of good will in all countries may have "leave to live by no man's leave, underneath the law."